

**ADMINISTRATIVE
PROCEDURES**

OF

**THE FAIRFAX COUNTY
GENERAL DISTRICT COURT**

GOVERNING

**COURT PRACTICE AND
PROCEDURE**

Updated March 2012

FREQUENTLY REQUESTED PHONE NUMBERS AND ADDRESSES

Fairfax County General District Court

Mailing Address:

Fairfax County General District Court
Attn: Civil (or Criminal) Division
4110 Chain Bridge Rd.
Fairfax, VA 22030
or

Fairfax County General District Court
Attn: Traffic (or Criminal) Division
PO Box 10157
Fairfax, VA 22038

Phone Numbers:

Administration:	703-246-2153
All Courts Automated Line:	703-691-7320
then press:	
4, 1 for Civil	4, 2 for Small Claims
4, 3 for Criminal	4, 4 for Court Services
Civil & Small Claims:	703-246-3012
Court Services Division:	703-246-7530
Criminal Division:	703-246-3305
Traffic Automated Line:	703-246-3764
Traffic Continuance Call-Back:	703-246-2336
Prepayment Recording:	703-246-2364
TTY:	711

Fairfax City Court and Town Courts

Fairfax City

10455 Armstrong St., Room 101
Fairfax, VA 22030
703-385-7866
703-385-7865 (Traffic Recording)

Vienna Court

127 Center St., South
Vienna, VA 22180
(Mondays only) *

Herndon Court

765 Lynn St.
Herndon, VA 22070
(Wednesdays only) *

* For information on town cases, call the numbers listed above for Criminal or Traffic.

Other Fairfax Courts

Circuit Court

Automated Line: 703-691-7320
Judges' Chambers: 703-246-2221
Civil Intake & Appeals: 703-246-4358
Other Appeals: 703-246-2228

Juvenile & Domestic Relations District Court

Automated Line: 703-691-7320
Clerk's Office: 703-246-2335
General Information: 703-246-3367

Court Web Sites

Fairfax General District Court: www.fairfaxcounty.gov/courts/gendist

Fairfax General District Court Procedures: www.fairfaxcounty.gov/courts/gendist/admin.pdf

Virginia Supreme Court (case information & forms) : www.courts.state.va.us

Fairfax County Code: <http://www.fairfaxcounty.gov> (Our Govt., About Fx Co, Related Links, County Code)

Virginia Code: <http://leg1.state.va.us/000/src.htm>

Referral Agencies

Fairfax ASAP

10640 Page Ave., Ste. 400
Fairfax, VA 22030
703-246-2727
www.fairfaxcounty.gov/admin/asap.htm

OAR

10640 Page Ave., Ste. 250
Fairfax, VA 22030
703-246-3033
www.oarfairfax.org

Volunteer Fairfax

10530 Page Ave.
Fairfax, VA 22030
703-246-3460
www.volunteerfairfax.org

Off-Site Records

Fairfax Archives

6800-A Industrial Rd.
Springfield, VA 22151
703-658-3875

Police Central Records

10600 Page Ave.
Fairfax, VA 22030
703-246-2272

Circuit Court Records

4500 University Dr.
Fairfax, VA 22030
703-246-6656

Fairfax Magistrate, Sheriff, and Police

Magistrate's Office

703-246-2178

Sheriff's Office

703-246-3227

Jail (ADC)

703-246-2100

Police Court Liaison

703-246-2218

Prosecutors and Public Defender

Fairfax County Commonwealth's Attorney

Raymond F. Morrogh
4110 Chain Bridge Rd, Room 114
Fairfax, VA 22030
703-246-2776

Fairfax City Prosecutor

John Kassabian
4201 Annandale Rd.
Annandale, VA 22003
703-750-3622

Vienna Prosecutor

Steven D. Briglia
1921 Gallows Rd, Ste 750
Vienna, VA 22182
703-883-0880

Herndon Prosecutor

Manuel A. Capsalis
1 W. Market St, 2nd Floor
Leesburg, VA 20176
703-525-2260

Public Defender

Todd G. Petit
4103 Chain Bridge Rd, Ste. 500
Fairfax, VA 22030
703-934-5600

Traffic Related Agencies

DMV (Toll Free, automated): 1-888-337-4782
DMV Customer Service: 1-804-497-7100
Parking Tickets: 1-866-842-2600

Fairfax Courthouse – Other Agencies

Information Desk: 703-246-2229
Law Library: 703-246-2170
Lawyer Referral: 703-246-3780
Legal Aid (LSNV): 703-778-6800
Legal Aid (Rm.213.1): 703-246-4601

ADMINISTRATIVE PROCEDURES OF THE FAIRFAX COUNTY GENERAL DISTRICT COURT

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FAIRFAX COUNTY GENERAL DISTRICT COURT

Overview

The General District Court is a court of limited jurisdiction which hears matters involving adults charged with traffic violations and criminal misdemeanors, civil suits and small claims cases, and conducts preliminary hearings in felony cases according to authority granted in the Code of Virginia. The Court has exclusive jurisdiction in civil cases involving \$4,500 or less and concurrent jurisdiction with the Circuit Court in cases involving more than \$4,500 and up to and including \$25,000.

The General District Court does not conduct jury trials; all cases are heard by a judge. Preliminary hearings and all civil and small claims cases are heard at the Fairfax County Courthouse. Misdemeanors for local ordinances and local traffic violations are heard at the Fairfax County Courthouse and also in Herndon, Vienna, and Fairfax City.

The Court Services Division of the General District Court assists defendants who request court-appointed counsel or interpreter services, interviews defendants in jail to assist judges and magistrates with release decisions, operates a pretrial supervised release program and an alcohol diversion program, and provides probation services to convicted misdemeanants.

Judges of the General District Court are elected by the Virginia General Assembly for a term of six years. The Honorable Donald P. McDonough currently serves as Chief Judge of the Fairfax County and Fairfax City General District Courts of the 19th Judicial District.

The General District Court is located on the first and second floors of the Fairfax County Courthouse at 4110 Chain Bridge Road, Fairfax, Virginia 22030. The Traffic Division may be reached by calling 703-246-3764. All other clerical divisions of the General District Court may be reached by calling 703-691-7320. The General District Court Announcement Line at 703-246-2377 provides recorded information of upcoming holidays, emergency weather related closings, and procedural changes. The court maintains a homepage of general information, certain local forms, and a link to this publication at www.fairfaxcounty.gov/courts/gendist. Civil, Criminal, and Traffic case information may be viewed on the Supreme Court's Web site at www.courts.state.va.us. Payment of many traffic infractions and certain misdemeanors may be made on-line with a credit card at this site.

The "Administrative Procedures of the Fairfax County General District Court Governing Court Practice and Procedure" is published once a year and made available free of charge. This publication contains helpful information concerning the Court's requirements and policies. It is generally updated each year after July 1 and may be obtained online at www.fairfaxcounty.gov under Courts, General District Court.

PART ONE
***GENERAL INFORMATION AND PROCEDURES
APPLICABLE TO ALL PROCEEDINGS***

1:1 Location and Office Hours of Courts in the 19th Judicial District

Fairfax County Courthouse
4110 Chain Bridge Road, Fairfax, VA 22030

Clerk's Offices:

Traffic Automated Phone Line – 703-246-3764

Court Automated Information Line - 703-691-7320
(All divisions except Traffic. See [Section 1:7](#) for routing

shortcuts)

Civil and Small Claims Division – Room 211 - Phone: 703-246-3012
Office Hours: 8:00 a.m. to 4:00 p.m.
Phone Hours: 8:00 a.m. to 3:30 p.m.
Civil Courtrooms: 2A and 2B. Also, 2E or 2F as needed.
Small Claims Courtrooms: 2G. Also, 2E or 2F as needed.

Criminal Division - Room 204 - Phone: 703-246-3305
Office Hours: 8:00 a.m. to 4:00 p.m.
Phone Hours: 8:00 a.m. to 3:30 p.m.
Criminal Courtrooms:
8:30 a.m. Dockets: Video Advisements: 2K, Bond Motions:
9:30 a.m. Regular Docket: 2J and 2K. Also, 2G and 2H as
2:00 p.m. Preliminary Hearing: 2G-2K and 1A-1E.

2G

needed.

Traffic Division - Room 106 - Phone: 703-246-3764
Office Hours: 8:00 a.m. to 4:00 p.m.
Phone Hours: 8:00 a.m. to 3:15 p.m.
Traffic Courtrooms: 1A, 1B, 1C, 1D, and 1E. Also, 2G or 2H
as needed.

Court Services Division - Room 203 - Phone: 703-246-7530
Office Hours: 8:00 a.m. to 4:00 p.m.

TTY – 711 (for each division)

Town of Vienna Court - Vienna Town Hall, 127 Center Street, South, Vienna, VA 22180

(Clerk's Office in Fairfax County Courthouse, Phone: 703-246-3764)

Town of Herndon Court - Municipal Center, 765 Lynn Street, Herndon, VA 22070

(Clerk's Office in Fairfax County Courthouse, Phone: 703-246-3764)

City of Fairfax Court - City Hall, 10455 Armstrong Street, Fairfax, VA 22030

Phone: 385-7866, Office Hours: 8:30 a.m. to 4:30 p.m.

(Clerk's Office in Fairfax City Hall, Room 101)

1:2 Schedule of Court Sessions

Fairfax County General District Court (for cases heard at the Fairfax County Courthouse):

Civil

Regular and Contested Dockets: 9:30 a.m., Monday through Friday,
Courtrooms 2A and 2B, respectively.

Foreclosure Docket: 2:00 p.m., Designated Thursdays,
Courtrooms 2A and 2B (list of dates available in Clerk's Office).

All civil cases arising in Fairfax City, Fairfax County, Herndon, and
Vienna are heard at the Fairfax County Courthouse.

Criminal

Prisoner Advisement Docket: 8:30 a.m., Monday through Friday,
Courtroom 2K. (Video Advisement from Fairfax Jail)
*(Note: Video Advisements for defendants being held in Virginia but
outside of Fairfax County are scheduled throughout the day as time
allows.)*

Bond Reduction Motions: 8:30 a.m., Monday through Friday,
Courtroom 2G.

Morning Dockets: Primarily in Courtrooms 2J and 2K. Also, 2G and 2H as
needed.

Regular Criminal Docket: 9:30 a.m., Monday through Friday.

Motions Docket: 9:30 a.m., Monday through Friday.

Advisement Docket (non-prisoner): 10:30 a.m., Monday through Friday.

Animal Warden Docket, 10:45 a.m., Monday through Friday

Preliminary Hearing Docket: 2:00 p.m., Mondays, Tuesdays, and Wednesdays,
Courtrooms 2G, 2H, 2J, 2K, 1E, and 1C. Also, 1A as needed.

Sentencing Docket: 2:00 p.m., third Thursday, Courtrooms 2G, 2H, 2J, 2K, and 1E.

(If third Thursday falls on a holiday, then fourth Thursday.)

Small Claims

Regular and Contested Docket: 9:30 a.m., Fridays, Courtroom 2G.

Traffic

Bond Reduction Motions: 8:30 a.m., Monday through Friday,
Courtroom 2G.

Regular Traffic Docket: 9:30 a.m., Monday through Friday,
Courtrooms 1A, 1B, 1C, 1D, and 1E. Also, 2G and 2H as needed.

Sentencing/Non-Compliant Docket: 2:00 p.m., first and fourth Thursdays,
Courtrooms 1A, 1B, 1C, 1D, and 1E. Also, 2G and 2H, as needed (If
docket Thursday falls on a
holiday, then next Thursday.)

Photo Toll Road Violations: 2:00 p.m., Mondays, Courtroom 1D.

Vienna Town Hall:

Traffic and Criminal Misdemeanor/Infraction Docket: 9:30 a.m., Mondays.
(Cases heard at Town Hall. Clerk's Office at Fairfax County Courthouse.)

Herndon Municipal Center:

Traffic and Criminal Misdemeanor/Infraction Docket: 9:30 a.m., Wednesdays.
(Cases heard at Municipal Center. Clerk's Office at Fairfax County Courthouse.)

Fairfax City Hall:

Traffic and Criminal Misdemeanor/Infraction Docket: 9:30 a.m., Tuesdays

and Thursdays. (Clerk's Office at Fairfax City Hall, Room 101.)

All felonies and civil matters are heard at the Fairfax County Courthouse, rather than at the City or town courts. All bond reduction motions are heard at 8:30 a.m. in Courtroom 2G at the Fairfax County Courthouse, not in the City or town courts.

1:3 Court Closings

The General District Court prints a calendar of court closings each year which lists the dates court will not be in session as well as state holidays when the court is closed. This calendar is revised as needed throughout the year. Copies of the calendar of court closings are available on the Court's Web site and at each of the Clerk's Offices in the Fairfax County Courthouse, as well as at the Fairfax City Court.

The Court rarely closes due to inclement weather. The General District Court makes its own independent decisions regarding closings, and the decision may differ from other Fairfax courts. However, if it is announced that the Fairfax County government offices are closed due to severe weather conditions, then the Courts will be closed also. Closings are updated on the General District Court Announcement Line at 703-246-2377 and the court's Website at www.fairfaxcounty.gov/courts/gendist, as well as on Fairfax County Government Channel 16 and other local television and radio stations.

1:4 Special Administrative Functions of Judges

The Chief Judge is responsible for the overall administration of courts and assignment of sitting judges. The Chief Judge may assign other judges administrative responsibilities to ensure the orderly functioning of the court in its respective divisions.

1:5 Foreign Counsel

Attorneys practicing before the court must be members of the Virginia Bar in good standing. Foreign counsel must apply for permission and pay a \$250 fee per case to appear pro hoc vice in Virginia courts. Foreign counsel and third-year law students must associate with local counsel pursuant to the Code of Virginia, Section 54.1-3900. Local counsel must remain in the courtroom during the conduct of the trial. (See also Virginia Supreme Court Rule 1A:4.) Additional information and the required application form are available on the Supreme Court's web site at www.courts.state.va.us under Forms. Select Supreme Court Forms and then select Out of State Attorneys.

1:6 Fax Policy

Facsimile machines are located in each of the Clerk's Offices in the General District Court, however, they are intended primarily for the Court's use in sending out items to various agencies. In the Traffic Division, the fax machine is in heavy use and may not be available to receive incoming mail. In the other divisions, the fax machines are not frequently monitored so items may not receive immediate attention. The Court prefers that correspondence and other items be sent by postal mail or dropped off at the counter in the proper division. Please call the individual Clerk's Office for permission before sending anything by fax. Documents which require an original signature should not be faxed to the Court.

1:7 Court Information Line – 703-691-7320

General District Court information may be accessed 24 hours a day on the Court Information Line by using a touch-tone telephone. The Court Information Line provides descriptions of Fairfax County's Circuit Court, General District Court, and Juvenile and Domestic Relations District Court and offers directions on how to get to the courts.

By dialing 703-691-7320, callers can listen to general information, such as how to request a continuance, the need for an attorney, and how to file a motion or appeal. Specific information on cases filed in the General District Court, such as upcoming hearing dates and case dispositions, may also be obtained from the Court Information Line between the hours of 6:00 a.m. and 6:00 p.m. by entering the case number or summons number. (See also Section 1:8 for Traffic Information Line.)

After dialing **703-691-7320**, callers will be asked to select from various menus by pressing a corresponding number on their touch-tone phone. Within any of the menus, the caller may press # (pound sign) to repeat menu options or * (asterisk) to return to a previous menu. Callers are reminded to pause between each number so the automated system does not confuse 1, 2 for the number 12. Listed below are menu shortcuts that list the sequence of numbers to press in order to reach a specific destination.

Civil Division: Dial 703-691-7320, Press 4, 1, then:

1 -Info on an existing case (by entering the case number), then:

- 1-Upcoming court dates**
- 2-Required due dates on pleadings**
- 3-Case disposition**
- 4-Appeal information**

2 -How to file a new case

3 -Fees required

4 -Need for an attorney

5 -How to request a continuance

6 -How to appeal

Small Claims Division: Dial 703-691-7320, Press 4, 2, then:

1-Info on an existing case (by entering the case number), then:

- 1-Upcoming court dates**
- 2-Required due dates on pleadings**
- 3-Case disposition**
- 4-Appeal information**

2-How to file a new case

3-Fees required

Criminal Division: Dial 703-691-7320, Press 4, 3, then:

1-Info on an existing case (by entering the case number or summons number), then:

- 1-Upcoming court dates**
- 2-Attorney of record on the case**
- 3-Case disposition**

2-How to request a continuance

3-Need for an attorney

4-How to appeal

5-How to file a motion

Court Services: Dial 703-691-7320, Press 4, 4, then:

1 -How to receive a court appointed attorney

2 -Information on Pretrial Supervised Release

3-Information on Probation Services

4-How to request an interpreter

1:8 Traffic Information Line – 703-246-3764

Due to the heavy volume of calls, the General District Court's Traffic Division maintains a separate automated phone line, available in English or Spanish, where callers can pay a traffic ticket using a credit card, listen to information on how to request a continuance, the need for an attorney, and how to file a motion or appeal. Specific information on traffic cases, such as upcoming hearing dates and fine amounts due, may also be obtained from the Traffic Information Line between the hours of 6:00 a.m. and 6:00 p.m. by entering the case number or summons number.

Traffic Division: Dial 703-246-3764, Press 2, then:

1-Info on an existing case (by entering the case number or summons numbers), then:

- 1-Fine amount due**
- 2-To pay the fine by credit card**
- 3-Continuance (automated request)**
- 4-Upcoming court dates**
- 5-Attorney of record on the case**
- 6-Case disposition**

2-Prepayment Recording (or dial direct at 703-246-2354 for prepayable fine amounts)

- 3-How to request a continuance**
- 4-Need for an attorney**
- 5-How to appeal**
- 6-How to file a motion**

1:9 On-Line Case Information and Fine Payment

All General District Court case information may be viewed on the Supreme Court's web site at www.courts.state.va.us for cases filed in both the Fairfax County General District Court and Fairfax City General District Court. To access information once it has been entered into the system, approximately three weeks from the date of the arrest or traffic stop or one week from the date of filing a civil action, follow these instructions:

- Go to www.courts.state.va.us
- Select "Case Status and Information" from the list on the left of the screen. Then select "General District Court" and then select "Case Information."
- Type the characters shown in the image for verification and then press Enter.
- Select either Fairfax City or Fairfax County General District Court from the drop down menu.
- Enter the name (last name, *space*, first name), but do not enter the middle name. Then select division (civil, criminal, traffic) and case type (active, inactive), and hit "Search."
- If your first attempt is not successful, try again but only enter the last name and the first two letters of the first name. Example: Hurd, Pa rather than Hurd, Patricia.

If you cannot find the name you are searching for, the case is either not yet entered or the name is misspelled. You may need to try again later or contact the Clerk's Office.

Civil: Additional information is available on the web site for civil cases. Once you have searched by name and obtained the civil case number, select the Reports Due menu at the top of the screen, type in the full case number, and select "Search." Bill of Particulars and Answer and Grounds of Defense due dates and filed dates are listed under the Reports Menu, as well as Garnishment answers (checks being held) and

issue dates on Writs of Possession, Subpoena Duces Tecum, and Witness Subpoenas. Return of Service information is available if service was obtained through the Fairfax County Sheriff's Office.

Fine Payment: The Supreme Court's web site also allows payment for most prepayable offenses and all concluded cases. Prepayments by credit card are accepted up until 3:30 p.m. on the business day before the court date. Payments after conviction are not accepted until the day following the court date. A four percent processing fee is added for all credit card transactions, including those paid over the Internet. Please note that prepayments for offenses involving local ordinances (such as "fail to pay full time and attention," "fail to maintain proper control," and "blocking an intersection") are not prepayable on the Supreme Court's web site, but may be prepaid using the Fairfax County General District Court's automated phone system.

1:10 Archives and Records Retention

Pursuant to the Code of Virginia, §16.1- 69.55, the Fairfax County General District Court currently retains case records for a period of ten years from the date of judgment or conviction. (Note: criminal sexual offense convictions must now be retained for a period of 50 years from the date of conviction and violations of protective orders are retained for 20 years.) Due to a limited amount of space, many General District Court case records are not available in the Fairfax County Courthouse. Instead, they are stored off-site at County Archives, which is located at 6800 Industrial Road, Springfield, Virginia 22151. The Civil/Small Claims Division currently retains approximately seven years of case files in-house, while the Criminal and Traffic Divisions are only able to maintain about three years of records within their offices. Exceptions include driving while intoxicated (DWI) convictions, which are stored in the Traffic Clerk's Office for the entire ten-year retention period; sexual offenses, which are stored in the Criminal Clerk's Office for the fifty-year retention period; and violations of protective orders, which are stored in the Criminal Clerk's Office for the twenty-year retention period.

Archives may be reached by calling 703-658-3875. To request a copy of a court record stored at Archives, you must first call the appropriate Clerk's Office in the General District Court to obtain the Accession Number and Box Number for the specific case. These numbers are assigned based on the conviction or trial date for criminal and traffic cases and on the case docket number for civil and small claims cases. Providing the clerk with this information will help expedite the search for these numbers, which must be provided to Archives.

In accordance with law, at the end of the ten-year retention period, General District Court records and indices are destroyed. Case records on civil and small claims cases that have been dismissed are destroyed following the yearly audit. If a civil judgment remains unsatisfied, it may be extended by docketing an abstract of the judgment in

the Circuit Court. This must be done within the ten-year period from the date the judgment was entered in the General District Court.

It is possible that a criminal history of convictions involving criminal and traffic cases that have been destroyed by the Court may still be obtained through the Central Records Division of the Fairfax County Police Department. Central Records is located at 10600 Page Avenue in the City of Fairfax, directly behind the Massey Building and Garage A in the Public Safety Complex. Criminal history record checks cost \$10.00 and must be requested in person between the hours of 8:00 a.m. and 4:00 p.m. Two forms of identification are required, one of which must be a photo ID. For additional information, call Central Records at 703-246-2272.

1:11 Copies

Copies in the General District Court cost 50 cents per page, however, single copies of civil judgments or criminal or traffic charging documents are provided free of charge to civil parties, counsel of record, defendants, prosecutors, public defenders, and law enforcement officers. Cases cannot be copied on their court date until the court session has ended and case files have been returned to the Clerk's Office. Requests should specify if a certified true copy is needed.

Anyone requesting more than five copies at a time will be asked to submit a written copy request for pick-up at a later time or as staffing allows. Larger requests for multiple-case copies will usually be processed within two to five business days. Unusual requests or requests that will require significant staff hours to complete may be referred to Court Administration.

1:12 Interpreters and Special Accommodations

The General District Court strives to ensure equal access to justice for all parties having matters before the court. Interpreters for speech or hearing impaired persons and non-English speaking individuals will be provided by the court. Spanish interpreters are available to assist in the courtrooms on a daily basis. Korean and Vietnamese interpreters are also available daily for the 9:30 a.m. criminal and traffic dockets. Other interpreters will be scheduled with advance notice to the Court Services Division at 703-246-7530 or to the individual division.

All courtrooms are wheelchair accessible and an assisted listening device is available upon request for hearing impaired individuals. The Court may be reached by TTY at 711 or by e-mail to gdcmail@fairfaxcounty.gov.

The Fairfax County General District Court will make every reasonable attempt to accommodate special requests from persons with disabilities. Requests should be

directed to Administration at 703-246-2153. Additional information and a request form are available on the Court's web site at www.fairfaxcounty.gov/courts/gendist.

PART TWO

CIVIL COURT PRACTICE AND PROCEDURE

2:1 Filing Civil Action

The Civil/Small Claims Clerk's Office is open for the filing of civil actions from 8:00 a.m. to 4:00 p.m., Monday through Friday. No case shall be filed or accepted by the Clerk for filing after 4:00 p.m. unless the filing of such case shall be approved by a judge. A civil action may be brought by warrant, summons, or motion for judgment directed to the sheriff or any other person authorized to serve process, requiring such individual to summon the person against whom the claim is asserted to appear before the court on a certain day to answer the complaint of the plaintiff set out in the warrant, summons, or motion for judgment.

The return date on a warrant, summons, or motion for judgment must be within 60 days after service. All cases are returnable to 9:30 a.m., Monday through Friday, with Fridays reserved for unlawful detainers or tenant/landlord cases only. The return date on an unlawful detainer should be set for a Friday approximately 16 to 21 days after filing (not more than 21 days), and service shall be made on the defendant at least ten days before the return date (see Code of Virginia, §8.01-126). Unlawful detainer cases involving a foreclosure should be returnable to 2:00 p.m. on a designated Thursday. See Clerk's Office for a list of upcoming Foreclosure Docket dates.

The General District Court has jurisdiction over disputes up to and including \$25,000, and exclusive jurisdiction on cases involving \$4,500 or less. Exceptions to this include unlawful detainers and distress warrants, where the General District Court has exclusive original jurisdiction, as well as any cross or counterclaims arising from these actions (see Code of Virginia, Section 16.1-77). Pursuant to Virginia Code §16.1-77, the liquidated damages and civil penalty on overweight vehicle violation cases filed in the Civil Division may also exceed the Court's \$25,000 jurisdictional limit.

2:2 Limitation on Number of Cases

No one attorney, law firm, or party litigant shall file more than 25 new cases with the Clerk's Office on any one day, with the exception of unlawful detainers for which the limit for filing is 35 cases on one day. No more than 25 new cases shall be returnable to any given date by an attorney, law firm, or party, and no more than 3 cases, totaling no more than two hours estimated hearing time, shall be scheduled for a given trial date without approval of a judge. A judge's approval is also required for setting more than one personal injury case per trial date.

2:3 Representation

Persons appearing in the Civil Division may represent themselves or may retain an attorney. In most instances, corporations and partnerships are required to be represented by counsel (see [Section 2:5](#)). Although the General District Court provides fairly easy to understand forms and samples for most civil actions, the issues may be complex and individuals may be unfamiliar with the Rules of Evidence that apply to the proceedings. If the opposing party has counsel, it may be particularly difficult for a person to appear *pro se* without an attorney. Clerks can assist with forms and explain court procedures, however, they are not attorneys and cannot provide legal information. Any legal questions should be directed to an attorney.

The Fairfax Bar Association offers a Lawyer Referral Service for those who do not know an attorney and are seeking legal advice. They may be reached at 703-246-3780. Legal Services of Northern Virginia (LSNV) will assist individuals who are elderly or who qualify based on income. During court sessions, LSNV may be contacted in Room 213.1, which is located between Civil Courtrooms 2A and 2B in the Fairfax County Courthouse. The phone number for this office is 703-504-9160, or they may be reached in their main office at 703-778-6800. LSNV maintains a web site that contains forms and information at www.lsnv.org. For those who wish to conduct legal research, the public Law Library is located on the first floor of the Fairfax County Courthouse and may be reached at 703-246-2170.

Although defendants are not entitled to a court appointed attorney in civil actions, the judge may appoint a Guardian *ad litem* under certain circumstances. Virginia Code Section 8.01-9 allows for the appointment of a Guardian *ad litem* if the defendant is incarcerated, an active member of the armed forces who is unable to appear, a minor, or a person whom the Court has judged is unable to represent themselves due to a mental incapacity. In these instances, the plaintiff bears the initial cost and must provide payment to the Guardian *ad litem* as directed by the judge at the conclusion of the case.

2:4 Attorney of Record

Attorneys should always note their appearance in writing in a case. A Virginia Bar ID number should be included. Civil dockets are arranged by attorney's or law firm's names with unrepresented parties placed last on the docket. Once an appearance is entered in a case, counsel may not withdraw without leave of court, after notice to the client. Substitution of counsel may be made with the party's written consent.

2:5 Corporations and Partnerships

Corporations and partnerships are severely restricted in their actions before the court if they appear without counsel. Corporate officers or employees who are not licensed

to practice law may not act as an attorney for the corporation at trial except in limited circumstances. (See Code of Virginia, §16.1-81.1 when the amount in controversy is \$2,500 or less and the corporation's stock is held by no more than five persons.) In most cases, corporate officers may not request judgment or cross-examine witnesses, and they are limited by law as to the filing of certain pleadings. (See Code of Virginia, § 16.1-88.03.)

2:6 Fees

Civil filing fees are set forth in the Code of Virginia. The filing fee on all actions in the Civil Division is \$46. A sheriff's service fee of **\$12 per party to be served** is required at the time of filing on most documents to be served by the sheriff.

Processes for service through the Secretary of the Commonwealth or the Division of Motor Vehicles do not require the \$12 sheriff's service fee, but other fees are required (see Section 2:7). The sheriff's fee is \$25 to serve an attachment before judgment, detinue seizure, writ of possession in detinue, distress warrant, and levy. A writ of possession in unlawful detainer requires a \$25 sheriff's fee for the first defendant, plus \$12 for each additional defendant to be served. **See Appendix, "Filing Civil Process - Guide to Forms and Copies Needed"**, for listings of current filing and sheriff's service fees. Cash and personal and business checks are accepted for payment of all filing and sheriff's fees. Checks should be made payable to "Fairfax County General District Court". A single check is preferred for the total amount of the filing and Sheriff's service fees on multiple filings. Separate checks are needed for service through the Secretary of the Commonwealth, DMV, or the State Corporation Commission. Filing and sheriff's service fees may also be paid by credit card (Visa, Master Card, Discover, or American Express), however, a four percent processing fee will be added for all credit card transactions.

2:7 Service of Process

Service of process is usually accomplished by the sheriff, within the County or City boundaries of his jurisdiction, or by private process server within the state of Virginia (see Code of Virginia, §8.01-293 and §8.01-325). Service of a warrant must be made not less than five days before the return day or not less than ten days before the return day of an unlawful detainer (see Code of Virginia, §§16.1-80 and 8.01-126). If service is achieved by posting, a default judgment is not possible unless the plaintiff certifies to the court that the defendant was mailed a copy of the process, at his or her residence, at least ten days before entry of the default judgment.

When there is a basis for jurisdiction pursuant to the Code of Virginia, §8.01-328.1, service may be made on an out-of-state defendant by certified mail through the Secretary of the Commonwealth. This type of service requires an affidavit of non-residency or an affidavit stating that after the exercise of due diligence, the party

has been unable to locate the defendant. In either case, the affidavit must set forth the last known address of the person to be served. A post office box is generally not accepted as a last known address. The affidavit (Form DC-410) is available at the Civil Clerk's Office. A completed green return receipt card and an envelope addressed to the defendant must be filed along with the affidavit. A fee of \$28 per defendant to be served is charged by the Secretary, and should be attached as a separate check payable to the Secretary of the Commonwealth. Additional time should be allowed for the return date when service is requested through the Secretary of the Commonwealth.

In automobile accident cases, service may be made on a defendant by service through the Department of Motor Vehicles, with proper affidavit of non-residency or an affidavit stating that after the exercise of due diligence, the party has been unable to locate the defendant. In either case, the affidavit must set forth the last known address of the person to be served, and further, that the action arose from an automobile accident resulting from the operation of a motor vehicle in the Commonwealth of Virginia. There is no state form for this affidavit. A fee of \$28 per defendant to be served is charged by the Department of Motor Vehicles, and should be attached as a separate check payable to DMV.

The employees of the Civil Clerk's Office will not check service for any plaintiff or plaintiff's counsel. The files on the return docket for any particular day are available for review in the civil docket review room (adjacent to the Civil counter) up until 9:15 a.m. on the return date, or during regular office hours from 8:00 a.m. to 4:00 p.m. any day prior to court. If service of process has not been made, the court has no jurisdiction to adjudicate the matter. Occasionally, a defendant may have received a mailed copy of the warrant and will appear in court without having been served. In these instances, the Court may request that the defendant sign a form voluntarily submitting to the jurisdiction of the Court.

One alias (second attempt at service) is allowed provided the alias is filed within 90 days from the original return date. Although no filing fees are required, the \$12 per person sheriff's service fee is still required on alias filings if service is requested through the sheriff.

2:8 Service by Private Process

Generally, anyone age eighteen years or older who is not a party or otherwise interested in the matter in controversy may serve most types of civil processes in the General District Court. Exceptions, which must be served by a sheriff, include any Writ of Possession, Levy, Show Cause, or Capias (see Virginia Code §8.01-293). The Code of Virginia is very specific as to the manner of service (see §8.01-296) and how return of service is made to the Clerk's Office (see §8.01-325).

A return by a private process server should follow the same progressive order as found on the sheriff's return on the back of the state forms. In other words, the return should state that personal service was attempted, and then substitute service on a family member was attempted before service by posting was made.

The return must include the date and manner of service and the name of the party served. The server's name, address, and telephone number are also required, along with an affidavit stating the qualifications of the person serving process. The state form, "Service Other Than by Virginia Sheriff" (form DC-411), may be downloaded from the Supreme Court's Web site at www.courts.state.va.us and used for the return by a private process server. The Code specifies that the person serving process make return to the Clerk's Office within 72 hours of service (see §8.01-294).

2:9 Continuances

All continuance requests must be submitted in writing at least five days prior to the court date. A first continuance from the regular or trial docket will be handled by the clerk if the new date is agreed to by all parties, pending availability of the trial date. Dates available for trial are noted on a calendar posted in the docket review room and on both podiums in Courtrooms 2A and 2B. Parties should consult the Court's closing schedule before selecting a continuance date. A copy of the General District Court's current closing schedule is available at the Clerk's Office.

Opposed continuance requests must be made by personal appearance in open court, after written motion, with at least five days notice to the Court and all parties and/or counsel of record. No case shall be continued generally. (See [Section 2:18](#) for additional information.)

2:10 Removal of Cases to the Circuit Court

Removal of a civil case from the General District Court to the Circuit Court is no longer allowed by law (see [Code of Virginia](#), §16.1-92).

2:11 Dismissal and Non-Suit of Pending Cases

No pending case shall be dismissed prior to court unless the same is done by plaintiff's praecipe, endorsed order, or sufficient proof of the consent of all parties. See Virginia Supreme Court Rule 7B:8 and Rule 7B:9 for dismissal of cases based on failure of plaintiff or defendant to appear.

Notice of a second or subsequent non-suit of a case requires a motion with notice to the defendant or defendant's counsel. Notice must include the date and location of any prior non-suits (see Virginia Code §8.01-380).

2:12 Docket Call

The docket, listing courtroom assignments, can be found on the monitors next to civil Courtrooms 2A and 2B on the second floor of the courthouse. The Regular Civil Docket shall be called by the presiding judge at 9:30 a.m., Monday through Friday, in Courtroom 2A. Docket order is determined by attorneys with the fewest number of cases to attorneys with the greatest number of cases, followed by unrepresented cases. Those cases set for their first return will be called in order by the judge. The judge shall review, approve, enter, or deny all requests for default judgment, uncontested motions for continuance, interrogatory, show cause, order of payment, and all other preliminary requests by litigants. If the defendant appears and admits liability on the plaintiff's claim, the judge will enter judgment. If, however, the defendant appears and contests the matter, the judge will assign a trial date.

The Civil Trial Docket shall be called by the presiding judge at 9:30 a.m., Monday through Friday, in Courtroom 2B. The judge shall first grant uncontested judgments on the affidavit and judgments ex parte, plus determine the length of contested cases for trial that day. After the original docket call, the judge will commence with the trials. Contested cases may be transferred to other courtrooms for trial as other judges become available.

2:13 Mediation

Mediation is offered free of charge to civil parties on the first return and trial date. Representatives from Northern Virginia Mediation Services are present in the courtroom and will explain the procedure prior to the start of court at 9:30 a.m. The use of mediation is voluntary and must be agreed to by all parties. If mediation is requested, the judge will pass over the case while the parties and the mediator attempt to reach an agreement outside the courtroom. At the conclusion of the mediation session, parties will return to the courtroom with an agreed order for the judge's signature. Generally, a mediated agreement results in the case being continued for final settlement and payment, or the case may be dismissed by consent of the parties. If the case cannot be settled through mediation, the parties must return to the courtroom for the judge to assign a trial date or hear the trial.

Once signed by the judge, mediated agreements are binding and may be enforced in court. However, either party may file a motion with the Clerk's Office placing the case on the docket to request that the judge dissolve the mediated agreement and reschedule the case for trial.

Northern Virginia Mediation Services may be reached at 703-856-7272 or on their Web site at <http://www.nvms.us>.

2:14 Contested Cases

All such cases shall be placed on the Courtroom 2B trial docket by attorneys or parties pro se with approval of the judge, in open court, or by praecipe with agreement of all parties prior to the first return date. Attorneys and pro se parties with multiple cases shall not schedule more than three trials per day on the contested docket, and estimated total hearing times should not exceed two hours. Only one personal injury case is allowed per trial date. Only unlawful detainer actions, distress warrants, and tenant's assertions will be heard on Fridays. Available trial dates may be determined by calling the Civil Clerk's Office at 703-246-3012 or by checking the calendar of available trial dates in the docket review room or on the podiums in the courtrooms.

All contested cases shall be heard in open court and judgment rendered in open court, or taken under advisement with a subsequent date set for proclamation of judgment or letter of opinion.

Lengthy Trials: Any contested case that is expected to take more than two hours to complete should be brought to the judge's or clerk's attention at the first return or time of selecting a trial date so that special docketing arrangements can be made. If the trial estimate exceeds three hours, a trial date must be obtained from the Civil Clerk's Office.

2:15 Requests for Subpoenas for Witnesses and Records

Witness subpoenas should be filed at least ten days in advance of the trial and requests for subpoenas duces tecum should be filed at least fifteen days prior to trial (or requested production date) on the appropriate forms furnished by the Civil Clerk's Office. (See Supreme Court Rule 7A:12.) The court cannot guarantee service on any request filed late. Subpoenas for witnesses and records require separate \$12 sheriff's service fees.

Separate forms exist for **attorney issued** subpoena duces tecum (DC-498) and for **attorney issued** subpoena for witness (DC-497) on civil actions. These forms may be obtained on the Web site for the Supreme Court of Virginia at www.courts.state.va.us/forms. At the time of issuance, the attorney must provide the Civil Clerk's Office with a copy of the completed form and a check for any applicable sheriff's service fee (see Code of Virginia, §16.1-265 and §16.1-89).

A subpoena duces tecum for medical records requires an additional form (DC-348) and notice to the patient as well as to the health care provider (see Code of Virginia, § 32.1-127.1:03).

2:16 Requirements for Filing of Bill of Particulars and Grounds of Defense

Upon request, the judge may require the plaintiff to file with the Court a written Bill of Particulars (form DC-441) and the defendant to file with the Court a written Grounds of Defense (form DC-442), also mailing copies of these filings to the opposing party. The bill of particulars and grounds of defense shall be due on specific dates. The failure of either party to comply may be grounds for awarding summary judgment in favor of the adverse party. Upon trial, the judge may exclude evidence as to matters not described in any such pleading. Forms and instructions are available from the Clerk's Office or on-line at www.courts.state.va.us.

2:17 Interpreters

Upon request, the Court will provide non-English language interpreters for civil trials. The Civil Clerk's Office should be notified in advance when an interpreter is needed or the case may require a continuance.

The Clerk's Office should be notified at least two weeks in advance if an interpreter for a speech or hearing-impaired individual is needed. An assisted listening device is available upon request for any hearing-impaired party or witness. Requests for assistance can be made by e-mail to gdcmail@fairfaxcounty.gov or through the Clerk's Office.

2:18 Motions, Demurrers, Pleas in Abatement

All such pleadings shall be heard in open court. If contested, motions will usually be called and then passed to the end of the docket in Courtroom 2A. Form and notice shall be as prescribed by law. Five days notice is required to the opposing party and the court. Motions should be scheduled Mondays through Thursdays, with Fridays reserved for landlord/tenant actions and their motions only.

2:19 Judgment on the Affidavit

Such request shall be noted by the judge during the call of the docket and entered or denied by the judge on review of the file. Judgment will not be entered unless the affidavit has been served on the defendant at the time of service of the warrant. An alias service of process may not be filed solely to obtain service of an affidavit which was omitted from the original filings.

The General District Court grants judgment on the affidavit contingent on review of the file in Chambers. If the file is later found to be incomplete or incorrect, the judgment is vacated and a disposition of dismissed without prejudice is entered. A

dismissal of a case under these circumstances will be entered as of the date of actual review rather than the date the judgment was initially entered in court.

An opinion issued by the Virginia State Bar on September 29, 2010 states that the practice of lawyers **signing** and submitting affidavits attesting to the debt owed by the defendant pursuant to Code of Virginia, §8.01-28 is unethical because the lawyer is acting both as witness and advocate in violation of Rule 3.7 of the Rules of Professional Conduct. The Fairfax County General District Court deems it a best practice that attorneys not sign §8.01-28 affidavits on behalf of their clients nor request the Court to enter a judgment on that affidavit for the reason that doing so puts the Court in the position of condoning conduct declared to be unethical. Upon review of a file in chambers, such an affidavit may result in a judge vacating the requested judgment.

The Civil Clerk's Office does not notify parties when a judgment on the affidavit is vacated. It is the plaintiff's responsibility to check that a final judgment was entered after review. When filing, attorneys may want to include a self-addressed, stamped postcard with each case to be used by the Civil Clerk's Office to send notice if a judgment is vacated upon review. The final disposition on a case can be obtained on-line at the Supreme Court's Web site at www.courts.state.va.us (select Case Information, General District Court). **Also, see Appendix, "Civil Judgment Checklist"**.

2:20 Ex Parte Proof

All such cases shall be heard in open court by the judge either during or at the conclusion of the call of the docket. Judgment shall be noted by the judge on the file and subsequently entered by the judge after review of the file.

2:21 Default Judgment in Motor Vehicle Damage Cases

Pursuant to Virginia Supreme Court Rule 7B:9, when a defendant who is properly served fails to appear, the Court may grant a default judgment after having received an itemized estimate of repairs, or upon presentation of a written appraisal (see Code of Virginia, §8.01-416).

2:22 Requests for Attorney's Fees and Interest

When requesting attorney's fees or interest based on a written contract, note, or other instrument, the applicable areas must be highlighted or circled on the document. If the contract, note, or other instrument allows for "reasonable" attorney's fees, but does not state a specific amount, then an affidavit must be filed noting the hours spent multiplied by the attorney's hourly rate to support the award of attorney's fees. Unless

otherwise specified, the legal rate of interest is set by Code of Virginia, §6.1-330.54 (currently six (6) percent).

2:23 Production of Written Agreement

When a suit is brought on a written contract, note, or other instrument, the original document shall be tendered to the Court for entry of judgment thereon unless the production of the original is excused by the Court for good cause or by statute. Pursuant to Code of Virginia, §8.01-32, a lost instrument affidavit may be accepted in lieu of an original. If the required documents are not in the file at the time of the judge's review in Chambers, the judgment shall be vacated and the case dismissed without prejudice as of the date of review, and the plaintiff will need to start again. It is the plaintiff's responsibility to check that a final judgment was entered after review. This may be done on-line at www.courts.state.va.us under Case Information. Attorneys may also include a self-addressed, stamped postcard when filing each case so that the Clerk's Office can notify them if a judgment is vacated upon review.

Documents which need to be submitted to the Court include:

- original note, contract or lease
- original bad check
- copy of a statement of account , invoice, or estimate of repairs
- copy of homeowner's agreement or bylaws
- copy of credit card agreement and signature card

For unlawful detainers, the following documents must be submitted:

- original lease with interest and attorney's fees highlighted
- 5 day pay or quit or other required notices
- affidavit filed and served with detainer if requesting judgment on the affidavit
- letter of reservation when rent is accepted after notice period has expired but possession is still sought pursuant to the Code of Virginia, §55-248.34.

2:24 Interrogatory Summons

Examination of parties (and their documents if requested by subpoena duces tecum) through interrogatory proceedings shall be held in open court at the conclusion of the docket call. Out-of-court interrogation of responding parties is generally permitted at the discretion of the judge and with the consent and agreement of the party to be interrogated informally or after the oath is administered in open court by the judge. Parties must return to the courtroom for the judge's approval before executing on personal property items at the interrogatory hearing. Execution on cash may require a turnover order. No interrogatory summons shall be continued more than one time. A

sheriff's service fee of \$24.00 per party to be served is required at the time of filing, as well as the \$46 filing fee.

If a party fails to appear after being properly served with an interrogatory summons, a request may be made to have the judge authorize the issuance of a show cause for contempt or a capias warrant for arrest. The judge will set a specific date for the show cause or capias to be returned to court. (See Section 2:26.)

2:25 Garnishment Summons

All garnishments are returnable to the General District Court not more than 90 days (bank garnishment) or 180 days (wage garnishment) from issuance, Monday through Thursday at 9:30 a.m. in Courtroom 2A. **See Appendix, “[Garnishment Information](#)”**. When filing a garnishment against wages, it may be necessary to note “wage garnishment” on the top of the form to avoid confusion if the employer is a bank or credit union. A garnishment directed against the wages of a federal employee requires service on a designated agent or agency head. **See Appendix, “[Procedures for Federal Government Garnishments](#)”**. The Court recommends the judgment debtor's social security number be furnished on all garnishment filings. Many government agencies and financial institutions are now requiring this information.

A sheriff's service fee of \$24.00 per party to be served is required at the time of filing, as well as the \$46.00 filing fee. **See Appendix, “[Filing Civil Process – Guide to Forms and Copies](#)” for current filing fees and sheriff's service fees.**

The Code of Virginia, §8.01-513, allows service of a garnishment upon officers and designated or managing employees of a corporation. Before service can be made on the registered agent or through the State Corporation Commission, the judgment creditor must supply the Court with a certificate stating (1) after due diligence, no such officer or employee or other person authorized to accept such service can be found in the Commonwealth, or (2) the designated or managing employee is also the judgment debtor.

The clerks will not check service. It is the responsibility of the judgment creditor or his or her attorney to check that service has been made on the garnishee and attempted on the debtor, and that a written answer or check has been received by the Court. Checks already received and held by the Court will be turned over to the judgment creditor or his or her attorney in the courtroom on the court date and do not require a garnishment disposition form. Garnishment answers and the number of checks being held can be viewed online www.courts.state.va.us (See [Section 1:9](#)).

2:26 Show Cause and Capias

The Show Cause Summons (Form DC-481) or Capias (Form DC-483) is to be filed by the requesting party on the appropriate form provided by the Civil Clerk's Office. The forms should be filed as soon as possible after the show cause or capias is authorized in court because there will be no continuances for the submission of the necessary paperwork. If the forms are not submitted, the show cause or capias will be dismissed on the return date and the judgment creditor will have to start again with the garnishment, or wait six months to begin interrogatories again. Once issued and served, such pleadings may be dismissed only by a judge for good cause shown. There is no filing fee, however, the \$12 sheriff's service fee per party to be served is required at the time of filing a Show Cause or Capias. A Capias must be served by a sheriff. Service by private process is not permitted.

2:27 Writ of Possession in Unlawful Detainer

The writ of possession must be filed within one year from the date of judgment for possession. An immediate writ of possession may be requested in court on cases of default judgment for nonpayment of rent or on cases arising out of a trustee's deed following foreclosure. Otherwise, the defendant has ten calendar days from the date of judgment on an unlawful detainer in which to note and perfect an appeal of the case by posting any required bond with the Court. Therefore, any filed writ not ordered as "immediate" will generally be issued by the Clerk's Office at the conclusion of the appeal period. If a writ of possession is filed more than 30 days after judgment, the Court may require an affidavit that no rent has been accepted without reservation or a copy of any letters of reservation, or the box for this purpose may be checked on the newest version of the writ of possession form.

There is no filing fee for a writ of possession, however, a sheriff's fee of \$25 for the first defendant plus \$12 for each additional defendant to be served is required. The form must include a contact name and phone number so that the sheriff can schedule the eviction. The sheriff will be present at the eviction, however, the sheriff does not move possessions since that is the contact person's responsibility. Once issued by the Court, a writ of possession can be canceled by contacting the Fairfax County Sheriff's Office at 703-246-3227.

2:28 Appeals

Appeals from the judgments of the Court must be noted **in writing** within ten calendar days and must be perfected within thirty calendar days from the date of the judgment by posting the bond, paying the writ tax and circuit court notice fee, and signing the Civil Appeal Bond (form DC-460). In unlawful detainer actions, the

bond, writ tax, and notice fee must be posted and the appeal perfected within ten calendar days (see Code of Virginia, §16.1-107 for exceptions on foreclosures and other information regarding appeals). (Note: Begin counting day one of the appeal period on the day after judgment. If the tenth or thirtieth day falls on a day when Court is closed, such as a holiday or weekend, then the appeal period extends to the next day Court is open.) Notice and perfection of appeals shall be filed with the Civil Clerk's Office during business hours, Monday through Friday, unless otherwise authorized by a judge.

Either the plaintiff or the defendant has the right to appeal to the Circuit Court any decision where the amount in controversy exceeds \$50, or is for possession only on an unlawful detainer action. An appeal may be noted by a party or by the attorney for such party (see Virginia Supreme Court Rule 7A:13 for exceptions). The DC-475, Notice of Appeal form, is available at the Clerk's Office for noting an appeal. The denial of a motion to rehear may not be appealed.

A judge will determine the amount of bond, if any, needed to file an appeal. Before filing an appeal, the party must check with the Civil Clerk's Office as to the amount of the bond and other fees. The writ tax and circuit court notice fee must be paid by cash, postal money order, or attorney's firm check with bar number payable to Circuit Court. All bonds must be in the form of cash, postal money order, surety bond, an insurance company's letter of irrevocable liability coverage, or by check written on an attorney's escrow account and payable to the General District Court or the Circuit Court. When bond is by corporate surety, the bondsman must appear before a clerk because the bondsman's signature and oath are required to perfect the appeal. An insurance company's written confirmation of liability coverage must be on letterhead and specify the amount of the judgment to be covered. In all civil cases except those for trespass, ejectment, or any action involving the recovery of rent (unlawful detainer), no **indigent** person shall be required to post an appeal bond. Qualification for indigent status is determined by a judge at the time of appeal. The writ tax and notice fees can only be waived by the Circuit Court.

Most appeals must be perfected in person at the Civil Clerk's Office so that the bond and fees may be receipted. If no bond is required, the DC-475 appeal form may be downloaded from the Supreme Court's web site (www.courts.state.va.us) and submitted by mail along with an attorney's check (must note bar number) payable to the Circuit Court for the required notice fee and writ tax. Timely delivery of the mail is at the sender's risk.

An appeal may be withdrawn in the General District Court or in the Circuit Court. If the appeal has not been perfected by posting a required bond or paying costs, or within ten days after entry of judgment when no bond is required, the appeal may be withdrawn by filing written notice in the General District Court with copies to all parties or their counsel. When an appeal is withdrawn in the General District Court, the original disposition stands. After the appeal is perfected by posting the bond or paying costs, or after ten days have elapsed since the entry of the judgment when no

bond or costs are required, the appealing party may request that the appeal be withdrawn by filing notice in the Circuit Court with copies to all parties or their counsel. If the withdrawal is approved, the Circuit Court will enter an order reaffirming the judgment entered in the General District Court (see Code of Virginia, §16.1-106.1). The case remains in the Circuit Court.

2:29 Request for New Trial

All motions for a new trial, to vacate judgment, or for reconsideration of judgment shall be by motion in open court, only after notice to the adverse party in accordance with the Code of Virginia, §16.1-97.1. The Motion to Reopen form (DC-368) is available in the Clerk's Office and on the Supreme Court's Web site. In most instances, it should be filed within 30 days of judgment and heard within 45 days. Whereas an appeal is a guaranteed new trial, Motions to Rehear are frequently denied, and filing the motion does not extend the appeal period. The denial of a Motion to Rehear may not be appealed.

2:30 Satisfaction of Judgment

Pursuant to the Code of Virginia, §16.1-94.01, once a judgment has been satisfied the judgment creditor or his agent or attorney must notify the Court **in writing** of this satisfaction within 30 days of payment or satisfaction of the judgment. A Notice of Satisfaction of Judgment form (DC-458) is available in the Clerk's Office and on-line at www.courts.state.va.us for this purpose. It complies with the code section which states: *Such notice shall include the docket number, the names of the parties, the date and amount of the judgment, and the date of the payment or satisfaction.*

If the judgment creditor fails to notify the Court within thirty days of satisfaction of judgment, then the judgment debtor may file a motion requesting that the Court order the judgment to be marked satisfied after notice to the judgment creditor. Upon sufficient proof, the judge can also order the judgment creditor to pay the judgment debtor's costs and attorney's fees. A Motion for Judgment to be Marked Satisfied form (DC-459) is available in the Civil Clerk's Office and requires the filing fee plus any applicable sheriff's service fee of \$12 per person to be served. The Court's disposition of the motion may be appealed to the Circuit Court if the original judgment principal is greater than \$50.

If a judgment debtor wishes to satisfy the judgment but cannot locate the judgment creditor, the Code of Virginia, §16.1-69.55, provides that payment of the judgment may be made to a court of record. The process requires that the judgment debtor obtain an abstract of judgment from the General District Court, pay docketing fees to the Circuit Court, and then file a motion in that court to pay the judgment into an interest bearing account in the Circuit Court so that the judgment may be ordered satisfied. A certified copy of the signed Circuit Court order should be supplied to the General District Court.

PART THREE
CRIMINAL COURT PRACTICE AND PROCEDURE

3:1 Prisoner Advisement Docket Call

Any defendant arrested who does not make bond prior to the next day court is in session shall appear by video for an advisement hearing at 8:30 a.m. These hearings are held Monday through Friday in Courtroom 2K and are open to the public. They include persons arrested in the City of Fairfax and the towns of Herndon and Vienna. The docket is called by the presiding judge who shall:

- Read the charge to the defendant;
- Advise the defendant of his trial date (misdemeanor);
- Advise the defendant of his preliminary hearing date (felony);
- Advise the defendant of the amount and type of his bond;
- Inform the defendant of his right to counsel and determine by inquiry the defendant's status with respect to counsel. (See Section 3:7.)

Other matters heard during this docket include motions initiated by the Court Services Division for defendants who remain incarcerated. These motions include requests for assignment of counsel, release of defendants on personal recognizance, third party release, release under the supervision of the Court Services Division, motions to amend bond amount, and requests to order forensic evaluation. (See [Part Six, Court Services Division](#), for additional information.)

For defendants held in another jurisdiction in Virginia, video advisements are scheduled by the Clerk's Office Monday through Friday at various times. Following the advisement, attorneys may then submit a Transportation Request form, available in the Clerk's Office, to have the defendant transported to Fairfax for trial. The request must be filed at least 48 business hours in advance of trial for defendants held in neighboring jurisdictions, including Arlington, Alexandria, Prince William, and Loudoun, or at least 72 business hours in advance of trial for defendants held in further outlying jurisdictions in Virginia, such as Rappahannock and Virginia Beach.

3:2 Criminal I - Misdemeanor Docket Call

The Criminal Court Misdemeanor Docket is called by the presiding judge at 9:30 a.m., Monday through Friday. This docket is split between two courtrooms, usually Courtrooms 2J and 2K, but Courtrooms 2G and 2H may also be used. The docket, listing the courtroom assignments, can be found on monitors next to the criminal courtrooms on the second floor. The Criminal I docket is usually heard in Courtroom 2K. Shoplifting, concealment, animal violation cases, and possession of marijuana or controlled substances cases are assigned to the Criminal II courtroom along with non-prisoner advisement hearings and most motions. (See [Section 3:3.](#)) The remaining

cases are assigned to the Criminal I courtroom. Cases noted as being represented by defense counsel will be automatically passed to the prosecutor prior to the start of court.

The presiding judge in Criminal I may first accept:

- Motions of the Commonwealth's Attorney;
requests for continuances, and
recommendations.

- Motions of defense attorneys;
requests for continuances, and
entry of guilty pleas.

The presiding judge shall then call the docket in alphabetical order by defendant's last name.

All pleas of guilty are disposed of during the initial docket call. Pleas of not guilty may either be set over and heard as a contested case at the conclusion of the docket call, or heard during the call of the docket. Cases may be transferred to other courtrooms for trial as other judges become available. The Clerk's Office should be notified in advance if the defense attorney estimates a trial will require two or more hours to hear so special arrangements can be made, if possible. Advance notice is also helpful if defense counsel wants to request that criminal and traffic cases be heard together.

3:3 Criminal II – Motions, Advisements & Other Case Types

The docket for Bond Reduction Motions will be called at 8:30 a.m. in Courtroom 2G. This 8:30 a.m. docket may also include arraignments on fugitive from justice cases when the defendant is in custody. Any other motions shall be called at 9:30 a.m., the Non-Prisoner Advisement Docket at 10:30 a.m., and animal control cases at 10:45 a.m., Monday through Friday, in the Criminal II courtroom (usually Courtroom 2J) and shall include the following types of cases:

- Contested Discovery motions, contested motions for subpoena duces tecum, and motions to withdraw counsel. Since such motions are not passed to the prosecutor first, defense counsel may wish to hand a copy of the motion to the prosecutor in the courtroom or provide a copy to the prosecutor at the time of filing in order to expedite the hearing of the motion.
- Review of eligibility and possible assignment of eligible defendants charged with first time shoplifting or concealment to serve community service with either Opportunities, Alternatives and Resources of Fairfax County, Inc. (OAR) or Volunteer Fairfax in lieu of conviction pursuant to the Code of Virginia, §19.2-303.2. For procedures on referrals, see Section [3:12](#).
- Review of eligibility and possible assignment of eligible defendants charged with first time underage possession of alcohol to the Court Services Division's Alcohol Diversion Program (ADP) for education, treatment, and community service assignment in lieu of conviction pursuant to the Code of

Virginia, §4.1-305. For procedures on referrals, see Section [3:12](#). (Note: These may be heard in Criminal I, Courtroom 2K.)

- Review of eligibility and possible assignment of eligible defendants arrested for first time possession of marijuana or controlled substances to the Fairfax Alcohol Safety Action Program (ASAP) drug education program and/or treatment in lieu of conviction pursuant to the Code of Virginia, §18.2-251. For procedures on these referrals, see Section [3:13](#).
- Dispositional hearings for defendants who have successfully completed assignments with OAR, Volunteer Fairfax, ASAP, or the Court Services Division's Alcohol Diversion Program, or trials for those who did not complete their assignments.
- First appearance Advisement of non-prisoner defendants charged with felonies and misdemeanors. The judge shall advise the defendant of their charge, hearing dates, and status of counsel.
- Information on Attorney (IAD) dates. In reviewing such cases, the judge will determine whether the appropriate forms have been filed and, if not, cases will be called for defendants to explain why they have not yet met with an attorney. (See [Section 3:7](#).)
- Trials of animal control violations.
- Trials of petty larceny and possession of marijuana cases.
- Trials referred from other courtrooms.

Cases in which the defendant does not qualify for a deferred disposition will automatically be passed to the prosecutor prior to the start of court if appearance of defense counsel is noted. Motions of the Commonwealth's Attorney will be heard first on the docket.

3:4 Trial Advisement and Plea Form

The Court's blue Trial Advisement and Plea form is available in all criminal courtrooms. The top portion of the form contains the advisement of rights required by Supreme Court Rule 7C:6 for those charged with an offense punishable by jail. The lower half of the form contains space for the prosecutor's recommended disposition, if any. Attorneys are required to complete the top portion of the form with their clients on all jailable offenses, even if they do not intend to obtain the prosecutor's recommendation.

No changes or additions to the written and signed recommendation will be allowed unless the prosecutor initials the changes or is present in the courtroom and agrees to the changes at the time the form is submitted to the judge.

3:5 Discovery Motions

Agreed requests for discovery, signed by the Commonwealth's Attorney or other prosecuting attorney, should be filed with the Clerk's Office before the court date, and the attorney should advise the clerks that the motion is already signed and therefore will not require a hearing. Contested requests for discovery (or requests for an early response due date) require a motion and hearing. The motion should be filed in the Clerk's Office, with notice to the Commonwealth's Attorney or other prosecuting attorney, at least ten days prior to the trial or preliminary hearing date. Any motion filed in the Clerk's Office before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m., unless specified otherwise. Responses to discovery, unless otherwise ordered, are returnable by 9:00 a.m. on the misdemeanor trial date, or for felony cases, on the day before the preliminary hearing date. See Rules of Virginia Supreme Court, Rule 7C:5, for additional information and requirements. See **Appendix, "Discovery Order"** or on the Court's Web site: www.fairfaxcounty.gov/courts/gendist.

Motions for Discovery on cases in **Fairfax City General District Court** should be filed at the City Court (City Hall, Room 101), with agreed motions requiring the signature of the city prosecutor. Contested motions require notice to the city prosecutor and will be heard at City Hall on a Tuesday or Thursday when court is in session.

Motions for Discovery on cases in the **Town of Vienna or the Town of Herndon** should be filed with the Criminal Clerk's Office in Room 204 in the Fairfax County Courthouse. Agreed motions require the signature of the town prosecutor. Contested motions will be heard in the proper town court of Vienna (Mondays) or Herndon (Wednesdays) at 9:30 a.m. after notice to the town prosecutor.

3:6 Bond Reduction Motions

All motions for a bond reduction must be filed in writing with the Criminal Clerk's Office by 3:00 p.m. on the business day prior to the requested hearing date with appropriate notice to the Commonwealth's Attorney **and the Court Services Division**. Forms for this purpose are available from the Criminal Clerk's Office and the Court Services Division. See **Appendix, "Motion for Bond Reduction"** or online at www.fairfaxcounty.gov/courts/gendist (under forms). If the defendant also has traffic charges pending, and the bond reduction motion lists those charges, the Traffic Clerk's Office must also be notified so that the case papers will be brought to the courtroom. All bond reduction motions are heard at 8:30 a.m. in Courtroom 2G.

Bond reduction motions on cases in **Fairfax City** should be filed with the City Court Clerk's Office (City Hall, Room 101) with notice to the Fairfax City Prosecutor, John

Kassabian (703-750-3622). Motions will be heard at the Fairfax County Courthouse at 8:30 a.m. in Courtroom 2G, **not** in the City.

Bond reduction motions on cases in either the **Town of Herndon or the Town of Vienna** must be filed with the Fairfax Criminal Division Clerk's Office located in Room 204 in the Fairfax County Courthouse. (File in the Traffic Clerk's Office, Room 106, for traffic cases.) Follow the procedures as noted above with the exception that the Herndon Prosecutor, Manuel Capsalis (703-525-2260), or Vienna Prosecutor, Steven Briglia (703-883-0880), must be notified instead of the Commonwealth's Attorney. Bond reduction motions on criminal town cases will be heard at 8:30 a.m. in Courtroom 2G in the Fairfax County Courthouse, **not** in the towns.

Procedures for bond reduction motions shall be as follows:

- Receipt of testimony of witness, if any;
- Argument by defense counsel;
- Receipt of Court Services Division report or Supervised Release (SRP) recommendation and other pertinent data;
- Argument by Commonwealth's Attorney (or Town or City Prosecutor);
- Final determination by the judge.

3:7 Determination as to Requirement for Counsel and Information on Attorney Dates

In all felony cases, and in Class One and Class Two misdemeanor cases, the judge shall inform the defendant of his right to counsel and determine by inquiry the defendant's status with respect to counsel.

For misdemeanor cases, the defendant will be advised of the right to counsel and availability of court appointed counsel. If the defendant indicates the desire to hire an attorney, a "Notice of Right to Counsel" form will be completed. Otherwise, the defendant will be interviewed for eligibility for court appointed counsel.

If any defendant charged with a felony desires to retain counsel, the judge shall assign the defendant an Information on Attorney (IAD) date, prior to the preliminary hearing date, to return to court with written confirmation that counsel has been retained. (A pink sheet is given to the defendant in court by the clerk for this purpose.) If the Court receives the "Information on Attorney" sheet, signed by the attorney, prior to the IAD date, the defendant does not have to appear on that day. If the sheet is not returned, the defendant must appear in court at 9:30 a.m. to explain why an attorney has not been retained. Any defendant who fails to appear or otherwise comply with the IAD requirements, shall be subject to the issuance against him of a capias arrest warrant and a notice of bond forfeiture to the defendant or any bondsman or third party surety, as the Court deems appropriate. Any cash bond posted by the defendant will be forfeited without further notice.

If any defendant desires court appointed counsel, he shall immediately be interviewed by Court Services personnel in Room 203 to determine if he qualifies for the same. In **Fairfax City**, the **Town of Vienna**, and the **Town of Herndon**, an available clerk will conduct the interview. Following the interview, the case will be called again in the courtroom and the judge will either approve or deny the request based on whether or not the defendant qualifies. If the defendant qualifies, counsel shall be appointed and the defendant so informed. If the defendant does not qualify, he shall be permitted the right to retain counsel as provided hereinbefore. Prior to the court date, any defendant desiring court appointed counsel may be interviewed by Court Services personnel in Room 203 at least ten business days prior to trial, between the hours of 9:00 a.m. and 11:00 a.m., Monday through Friday.

If any defendant charged with a Class One or Class Two misdemeanor desires to waive his right to counsel, he shall be required to execute a "Waiver of Counsel" form.

3:8 Appearance and Substitution of Counsel

An Appearance of Counsel form should be filed on all cases where a defendant is represented by counsel. These forms are available in the Clerk's Office and all courtrooms, as well as on the Court's Web site at www.fairfaxcounty.gov/courts/gendist.

Once counsel has entered an appearance or been appointed to a case, counsel may not withdraw without leave of Court, after notice to the client. Substitution of counsel will be granted by a judge with signed consent of defendant and both attorneys. A form to withdraw or substitute counsel is available at the Criminal Clerk's Office and should be filed there for submission to a judge. **See Appendix, "[Appearance of Counsel](#)" and "[Motion to Withdraw or Substitute Counsel](#)".** A limited appearance of counsel will be accepted but must be noted on the form.

3:9 Earlier Court Dates

All parties, including the prosecutor, officer, and witnesses, must agree if an earlier trial date is requested. Upon obtaining agreement, parties should notify the Criminal Clerk's Office at least 48 hours before the new agreed date. If agreement cannot be reached, a motion may be filed, with notice to the other parties, for review by a judge in open court. When a defendant remains incarcerated and the upcoming court date is more than one month away, defense counsel may contact the Court Services Division staff for assistance in arranging an expedited trial. In certain instances, Court Services may attempt to arrange for an earlier court date on their own initiative. (See Section [6:6](#).)

3:10 Competency Motions

Competency motions pursuant to the Code of Virginia, §19.2-169.1 *et seq.*, should be made on the appropriate form and accompanied by the “Request for Forensic Evaluation” worksheet available at the Criminal Clerk's Office. **See Appendix, “Competency Motion” (GDC-137).** Motions must be filed by 3:00 p.m. to be heard on the next court day. The defense counsel must determine the appropriate section(s) under which to file the motion, depending on the circumstances of the case and the status of the defendant. The Court will appoint an independent evaluator if the Forensics Unit in the Adult Detention Center is unable to accept the assignment.

3:11 Emergency Treatment Orders Pending Trial

Emergency treatment orders pursuant to the Code of Virginia, §19.2-169.6 may be initiated either by defense counsel or the Forensics Unit of the Adult Detention Center. When initiated by the Forensics Unit, they will prepare a letter for review by the presiding criminal judge. If the judge consents to ordering the requested treatment, Chambers staff will notify defense counsel. If defense counsel desires to file a motion contesting the treatment order, such motion must be filed with the Criminal Clerk's Office by 3:00 p.m. for hearing on the next day's 9:30 a.m. docket. As soon as the Court is notified of a pending emergency treatment order request, the jail is notified that the bond is revoked pending the judge's decision.

3:12 Community Service Referrals for Shoplifting, Property Offenses, and Underage Possession of Alcohol

The Court may refer defendants charged with a non-violent offense to one of several programs for the purpose of performing community service either in lieu of conviction or as part of the sentence imposed after conviction.

Shoplifting. A defendant charged with first-time shoplifting or concealment is eligible for a referral in lieu of conviction if he:

- has not previously been convicted of such an offense,
- has not previously had a proceeding against him for violation of such an offense dismissed,
- enters a plea of guilty, and the court could justify a finding of guilt, and
- consents to the referral.

Those who qualify as listed above and who are accepted into the program will be required to attend an education program, perform 50 hours of community service, and

refrain from any further violations of law. All referrals are made returnable to the court for the judge to dismiss the case upon satisfactory completion of the program requirements. The Court may refer defendants to either Opportunities, Alternatives and Resources of Fairfax County, Inc. (OAR) or Volunteer Fairfax. Those who receive a deferred judgment in accordance with the Code of Virginia, §19.2-303.2 must pay court costs and be fingerprinted on the date of deferral.

Property Offenses. Defendants charged with other non-violent offenses, including first time property offenses, are also eligible to perform community service in lieu of conviction. Those who receive a deferred judgment in accordance with the Code of Virginia, §19.2-303.2 must pay court costs and may be referred for fingerprinting depending on the charge. Defendants assigned community service as part of their sentence may also be placed on probation at the discretion of the presiding judge.

Underage Possession of Alcohol. A defendant charged with underage possession of alcohol, who has not previously been convicted of that charge, may be placed on probation subject to appropriate conditions in lieu of conviction. In all such deferred proceedings, the Court shall require the defendant to enter a treatment and/or education program such as the Alcohol Diversion Program (ADP) monitored by the Court Services Division (see Code of Virginia, §4.1-305). ADP consists of an alcohol education program and community service as required by law. The judge may also suspend the defendant's driver's license for a period of up to 12 months and authorize a restricted license when appropriate. As with all deferred dispositions, court costs are assessed.

3:13 Persons Charged with First Offense of Possession of Marijuana or Controlled Substance

Pursuant to the Code of Virginia, §18.2-251, whenever any person who has not previously been convicted of any statute of the United States or any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, enters a plea and the court could justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on conditional probation to complete the requirements of the Fairfax Alcohol Safety Action Program (ASAP). When a deferred disposition is allowed, the defendant must be fingerprinted and proceed immediately to the Clerk's Office to complete the necessary forms to be placed on probation as well as to pay the court costs.

Whenever the Court places an individual on probation pursuant to the Code of Virginia, §18.2-251, such action shall be treated as a conviction for purposes of the Code of Virginia, §18.2-259.1 and §46.2-390.1, and the defendant's driver's license shall be suspended for a

period of six months. Under the Code of Virginia, §18.2-259.1(c), a restricted driver's license may be issued for specific purposes (refer to Section [3:14](#) for procedures).

3:14 Restricted Driver's License

A Restricted Driver's License (RDL) may be requested following suspension by a judge or following suspension due to unpaid fines and costs, when the license would not otherwise be suspended.

Court Suspensions for Underage Possession of Alcohol or any Drug Violations:

In appropriate cases involving underage possession of alcohol or any drug violation, the defendant may petition the Court for a restricted driver's license pursuant to the Code of Virginia, §18.2-259.1(c). This may be done at the time of conviction or at a later date by motion. Any motions must be filed with the Criminal Clerk's Office (Room 204) no later than 8:30 a.m. in order to be heard on that day's 9:30 a.m. docket. Any motion filed after 8:30 a.m. will be heard on the next day court is in session unless specified otherwise. Prior to issuance of a restricted driver's license, all fines and costs must be paid in full and the defendant must surrender a valid Virginia driver's license or permit (out-of-state licenses are not surrendered). A copy of the defendant's driving record and a compliance summary, both obtained from DMV no more than seven days prior to the motion date, must be provided to the judge in the courtroom for any motion filed after the conviction date.

An Application for a Restricted Driver's License (Form DC-263) must be prepared in advance and submitted when the motion is filed for consideration in the courtroom by the presiding judge. This form may be obtained at the Clerk's Office and is also available on the Supreme Court's web site (www.courts.state.va.us) in a revisable .pdf format that may be completed online and printed for filing. **See Appendix, "[Application for a Restricted License](#)".** On the Application, the petitioner must provide the Court with the specific purpose for the hours requested on the restricted license (see the Code of Virginia, §18.2-271.1.E). Also, the form must include the name and address of any employer, school, daycare or medical provider.

For cases in the **City of Fairfax**, the Application and motion for a restricted driver's license must be filed with the City Clerk's Office no later than 9:00 a.m. in order to be heard on that day's 9:30 a.m. Tuesday or Thursday docket at City Hall. For cases in the **Town of Herndon** or the **Town of Vienna**, the Application and motion should be filed with the Criminal Clerk's Office, Room 204, in the Fairfax County Courthouse, as noted above. These motions will be heard by the original sentencing judge either at the town court or at the Fairfax County Courthouse.

Amendments to an existing RDL: A motion to amend the conditions of a restricted driver's license, including address changes, must be filed with the Criminal Clerk's Office or the Fairfax City Court as noted above. Such motions may be heard by the sentencing judge or other available judge. A copy of the defendant's driving record

and a compliance summary, obtained from DMV no more than seven days prior to the motion date, must be provided to the judge in the courtroom. Also, a new [Application for a Restricted License](#) (Form DC-263) must be completed and submitted at the time the motion is filed. This form may be obtained from the Clerk's Office or on the Virginia Supreme Court's web site at www.courts.state.va.us (follow the prompts to traffic forms). If the motion to amend is granted, the defendant must surrender the previous RDL at the Clerk's Office before a new RDL will be issued.

Suspensions for Failure to Pay Fines and Costs in the 19th Judicial District

(Fairfax County and City): Anyone who has been suspended for failure to pay court ordered fines and costs, and whose driver's license would not otherwise be suspended, may apply for a Restricted Driver's License (RDL) pursuant to the Code of Virginia, §46.2-395(E) for a period of six months. A new application must be filed for any additional six months needed.

The "Petition for Authorization for Restricted Driver's License – Failure to Pay Fines and Costs" (Form DC-270) is available in the Clerk's Office and must be submitted along with the following: an initial \$50 payment to be credited toward the unpaid fines and costs; a copy of the defendant's driving record and a compliance summary, both obtained from DMV within seven days prior to filing the petition; and proof of employment, such as a recent pay stub.

The DC-270 and other required documents should be filed with the Clerk's Office. The request will be reviewed by a judge, usually within 24 hours. The requesting party will be contacted by telephone only if the request is denied. Otherwise, the signed "Authorization for a Restricted License" (Form DC-271) can be picked up at the Clerk's Office after 12:30 p.m. the next business day after filing. This is only an **authorization**; it must be taken to a full-service DMV for the actual RDL to be issued. If fines and costs are due to other courts in Virginia, an Authorization must be requested from each court separately.

If the defendant has unpaid fines and costs only with the Fairfax County General District Court, not with any other courts, then he may prefer to request a Restoration Plan with the Clerk's Office rather than petition for an RDL. Under a Restoration Plan, the driver's license is not restricted and may be extended longer than six months for payment of fines and costs.

3:15 Requests for Subpoenas for Witnesses and Records

Requests for subpoenas for witnesses should be filed at least ten working days prior to trial on the appropriate forms furnished by the Criminal Clerk's Office. The Court cannot guarantee service on any request not filed at least ten working days before trial. Additional time is required if the subpoena is to be served outside of Fairfax County. Service by private process is permitted, however, the requesting party may be asked to return the next day to allow time for the clerk to complete the paperwork.

Defense counsel may issue a witness subpoena on their own, rather than requesting the subpoena through the Clerk's Office. A copy of the subpoena must be provided to the Court. The attorney-issued form is available at the Criminal Clerk's Office and on the Supreme Court's web site at www.courts.state.va.us.

Requests for subpoenas duces tecum should be filed at least 15 working days prior to trial (or date documents are due) on Form DC-336 (original and three copies). The form should be filed in the Criminal Clerk's Office for a judge's signature or may be filed as a motion with notice provided to the Commonwealth's Attorney or other prosecuting attorney. If a request for subpoena duces tecum is denied by the judge in Chambers, then the party may file the request as a written motion within the time prescribed and with notice to the appropriate prosecutor as noted above. Any motion filed before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m., unless specified otherwise. If the request is to be served outside of Fairfax County, or if the documents required are not located within the local vicinity, the motion should be filed at least 21 working days prior to the trial date. All documents and records will be ordered returnable to the Court. Copies may be obtained at the Clerk's Office for 50 cents a page, or the attorney may supply a blank disk when requesting a copy of a CD or DVD. If evidence stored on a CD or DVD will be presented at trial, a Request for Technology form, available on the Court's web site at www.fairfaxcounty.gov/courts/gendist or at the Clerk's Office, must be submitted in advance.

Requests for subpoenas duces tecum on **City of Fairfax** cases are filed with the City Clerk's Office and motions are heard at City Hall on Tuesdays or Thursdays after notice to the city prosecutor. For cases in the **Town of Herndon** or the **Town of Vienna**, requests may be filed with the Criminal Clerk's Office in Room 204 in the Fairfax County Courthouse. Motions are heard in the towns, either on Mondays in Vienna or on Wednesdays in Herndon, after notice to the appropriate prosecutor.

3:16 Interpreters

The Court will provide non-English language interpreters for all criminal court proceedings and, in certain instances, for attorney-client interviews. Spanish interpreters are available daily for interpreting in court. No advance notice to the Court is required. Also, Korean and Vietnamese language interpreters are available daily for the 9:30 a.m. dockets. For all other languages, and for any language other than Spanish at the 8:30 a.m. or 2:00 p.m. dockets, the attorney, defendant, or defendant's family member should notify the Criminal Clerk's Office in Room 204 of the Fairfax County Courthouse (703-246-3305) and the Court Services Division in Room 203 (703-246-7530) at least three days in advance of the court date to allow sufficient time for scheduling of the requested language interpreter.

The Clerk's Office should be notified at least two weeks in advance if an interpreter for a speech or hearing-impaired individual is needed. An assisted listening device is

available upon request for any hearing-impaired party or witness. Requests for assistance can be made by e-mail to gdcmail@fairfaxcounty.gov or through the Clerk's Office.

Court appointed counsel may request that Court Services schedule an interpreter to assist with attorney-client interviews if no other arrangements can be made. The interview will be scheduled in a private room at the Fairfax County Courthouse during the afternoon when an interpreter is available. If the client is in jail, interpreters will assist with interviews at various times throughout the day. The Court provides non-English language interpreters for court proceedings and client interviews only. Private arrangements must be made for translation of documents.

3:17 Preliminary Hearings

Felony preliminary hearings are heard at 2:00 p.m., Monday, Tuesday, and Wednesday of each week. This docket is split between four to seven courtrooms located on the first and second floors. The docket listing indicating courtroom assignments scrolls on the monitors located on the first and second floors near Courtrooms 2K, 1A, and 1E. Only those cases in which the defendant is incarcerated may be heard during the week that is two weeks before the week the Grand Jury convenes.

No preliminary hearing shall be set for hearing prior to fourteen (14) days after advisement unless the earlier date is by agreement between the defendant and the Commonwealth's Attorney and with the approval of the presiding judge. For procedures on obtaining an earlier court date, see Section [3:9](#).

The preliminary hearing may not be used for discovery. The defendant is entitled to call witnesses for the purpose of showing either that a crime was not committed or that the defendant did not commit the offense charged.

Requests to authorize payment of a court reporter for a preliminary hearing for an indigent defendant must be made by motion in the Circuit Court prior to the hearing.

A defendant may waive his right to a preliminary hearing and, if he wishes to do so, must sign the original warrant indicating the waiver. A motion may be filed returnable to the regular

9:30 a.m. criminal docket for the purpose of waiving the preliminary hearing or entering an agreed disposition, such as a plea to a misdemeanor or *nolle prosequi*. The motion must be filed by 3:00 p.m. in order to appear on the next day's 9:30 a.m. docket.

If a defendant is certified to the grand jury or waives his right to a preliminary hearing, the Court shall set bond or continue the existing bond for appearance in Circuit Court. If a defendant's case is to be forwarded to Circuit Court and the

defendant is in jail, the judge will set a trial date at the conclusion of the preliminary hearing. If the defendant intends to plead guilty in Circuit Court, the judge, with the agreement of the defendant, may set a date in Circuit Court for the plea. This will avoid the Term Day appearance.

On a felony warrant amended to a misdemeanor to which a defendant desires to enter a plea of guilty, the recommendation of the Commonwealth's Attorney, if any, will only be received after such defendant has properly executed the "Trial Advisement and Plea" form and any necessary Restitution Orders, and after examination of the defendant in open court as to his competency and as to the voluntariness of such a plea.

3:18 Continuances

No continuance shall be granted to the Commonwealth or defendant as a matter of right, but only for good cause shown.

For misdemeanor cases with an officer listed as complainant: the continuance request must be made either in person or by phone to the Criminal Clerk's Office at least two business days prior to trial for review by a judge. The request will be presented to the presiding judge during the day. The party requesting the continuance must call back to the Clerk's Office to get the judge's decision after 10:30 a.m. the following day. If the new trial date is known, the clerk will provide the new date. Otherwise, the Criminal Division must be contacted after the original court date to obtain the new trial date or the updated court date may be viewed online at www.courts.state.va.us. Any continuance request that is denied by a judge in Chambers may still be filed as a written motion to be heard in open court.

For misdemeanor cases with a citizen listed as complainant: the continuance procedures are the same as listed above except that both parties must agree to the new court date before a judge will grant approval. For certain misdemeanor cases such as assault, stalking, indecent exposure, telephone abuse, sexual assault, obscene phone calls, and destruction of property, if the complainant is a citizen, then the requesting party must file a motion to request a continuance. Parties are not to contact each other for an agreed date. The motion must be filed with the Criminal Clerk's Office at least five business days prior to the date the motion will be heard. The clerk will notify the other party of the motion date.

For all felony cases: defense counsel must first obtain a continuance request form and new preliminary hearing date from the Criminal Clerk's Office. **See Appendix, "[Criminal/Traffic Continuance Request](#)"** or on the Court's homepage at www.fairfaxcounty.gov/courts/gendist. Counsel should then obtain the signed agreement of the Commonwealth's Attorney before returning the request to the Criminal Clerk's Office for review by a judge the next morning. The judge may require that the attorney present the request in person. Any request received by the

Criminal Clerk's Office on the morning of the court date will be attached to the front of the file for consideration by the judge in the courtroom. The Clerk's Office does not notify the defendant of the new preliminary hearing date, however, court dates and other information can be viewed online at www.courts.state.va.us under Case Information by selecting General District Courts and then using the drop down menu to select "Fairfax County General District Court".

In the event of an emergency, the clerk can place a note on the case up until 9:15 a.m. the morning of court, or up until 1:45 p.m. for a preliminary hearing, to request a continuance. This note does not guarantee a continuance, and a Capias, Show Cause Summons, or Bond Forfeiture may result from the non-appearance. The party requesting the continuance must call back after 2:00 p.m. on the court date (the next day following a preliminary hearing) or check online for the judge's decision.

3:19 Failure of Defendant or Complainant to Appear

If any defendant fails to respond to a warrant or summons, the Court shall continue the case and shall direct the clerk to issue a capias for arrest of the defendant for failure to appear and/or a notice of bond forfeiture to any bonding company or third party surety. Any cash bond posted by the defendant will be forfeited without further notice. If any defendant shall fail to appear at preliminary hearing, a felony warrant for failure to appear will be authorized for the defendant's arrest.

The provisions herein notwithstanding, if a defendant fails to appear in response to a summons for a violation of law not involving a jail sentence, such as drunk in public, fishing, hunting, boating, or animal statutes, the judge may proceed to try said defendant in his absence. On conviction, the clerk shall send notice to the defendant of the trial in absence and the amount of the fine and costs. An additional \$35 fee is assessed when a defendant is tried in absence. (See Code of Virginia, §19.2-254.2.)

If a complainant fails to appear to prosecute a warrant or summons on his complaint, such warrant or summons shall be disposed of as to the defendant on the Commonwealth's motion to *nolle prosequi*. In the alternative, a show cause against the complainant may be issued by the judge and the case continued.

If a complainant desires to withdraw a warrant or summons obtained, he may be permitted to do so only in court and at the discretion of the judge.

3:20 Bond Forfeiture

If a defendant on a secured bond fails to appear in court, any cash bond posted by that defendant will be forfeited without further notice.

If a defendant fails to appear while on a bond secured by a bonding company or posted by a third party, the judge will authorize a Show Cause Summons (Bond Forfeiture) against the bonding company and the insurance company or the third party within 45 days of the failure to appear, pursuant to Code of Virginia, §19.2-143.

On the court date, if the bonding company or third party is found in default, the show cause will be continued at least 150 days for entry of a civil judgment. When judgment is entered, any third party bond will be immediately forfeited. A bonding company and their surety will be sent notice stating that the judgment must be paid to the Court within 60 days. The bonding company and surety or third party have up to two years from the date of the finding of default (or up to four years if the defendant is incarcerated outside of Virginia) in which to surrender the defendant and file a motion requesting that the judge vacate the forfeiture or refund a portion of the forfeiture to offset their costs of producing the defendant. All motions must be filed with the Court's Traffic Division in Room 106 and require 48 hours notice.

3:21 Request for Certificate of Analysis and Motion for Chemical Analysis

A defendant or defendant's counsel of record may request from the Criminal Clerk's Office a copy of any certificate of analysis in a case, pursuant to the Code of Virginia, §19.2-187. The request must be in writing and filed at least ten days prior to trial on Form DC-302, "Request for Copy of Certificate of Analysis." Once admitted into evidence, the certificate of analysis becomes part of the public record.

In any possession of marijuana case, the defendant or attorney of record may, prior to trial, request by motion an Order for Chemical Analysis of Alleged Plant Material on Form DC-304 pursuant to the Code of Virginia, §19.2-188.1. Upon granting such motion, the Court shall order that the analysis be performed by the Department of Forensic Science.

These forms are available at the Criminal Clerk's Office and on the Supreme Court's Web site (www.courts.state.va.us) in a revisable 'pdf' computer file format. Notice of these requests must be supplied to the Commonwealth's Attorney or appropriate City or town prosecutor.

3:22 Probation

Following a finding of guilt, the Court may delay the imposition of sentence pending the receipt of a record check obtained by the Court Services Division. The defendant must appear at the Criminal Clerk's Office to complete the necessary forms. The record check shall be made returnable to the judge's sentencing docket at 2:00 p.m. on the third Thursday of the next month after trial. If third Thursday falls on a holiday, then fourth Thursday.

If a defendant is placed on probation, the defendant must complete the referral forms at the Criminal Clerk's Office. In addition to completing the forms, any defendant assigned to probation with Court Services must meet with the probation staff immediately following court or immediately upon release from incarceration. Individuals placed on probation in the Towns must contact Court Services within 48 hours. In order to complete probation, a defendant must pay any fines and costs due to the Court and must comply with all orders of restitution and all conditions of probation.

3:23 Payment of Fines and Costs

Any defendant convicted of a criminal offense, or whose case has been continued for dismissal such as on a deferred disposition, shall pay all fines and costs assessed immediately. The Criminal Clerk's Office will accept payments by cash, credit card, check, or money order. A four percent processing fee will be added to all credit card transactions. A \$20 fee will be added to the fines and costs due for any returned check or if a credit card payment is stopped after acceptance. **Fines and costs may be deducted from a defendant's cash bond held by the Court.** Extra time for the payment of such fines and costs will be allowed **if requested in writing by the defendant.** However, an additional \$10 fee will be assessed if deferred payment is granted. The defendant must appear at the Criminal Clerk's Office within 15 calendar days to complete the appropriate forms.

If deferred payment is not requested and any amount remains unpaid after 15 calendar days from the date of conviction, the Criminal Clerk's Office will notify the Division of Motor Vehicles to suspend the defendant's driver's license or privilege to drive in Virginia until the debt is paid in full pursuant to the Code of Virginia, §46.2-395.. Before reinstatement, the defendant must contact DMV and pay a reinstatement fee. DMV may assess an additional fee if the suspension notice was served by a DMV or sheriff representative. See DMV's Web site at www.dmvnow.com or call them at 804-497-7100 for additional information and requirements to reinstate a driver's license.

If the defendant fails to make payment initially or in accordance with a deferred payment agreement, any unpaid debt will be sent to the Court's collection agent. This may result in attachment of the defendant's wages, state income tax return, or other assets. After 40 days, interest is charged on all unpaid fines and costs at the rate allowed by the Code of Virginia (currently six percent).

3:24 Restitution

When restitution is ordered, the appropriate Restitution Order form should be submitted to the judge in court and copies will be distributed to the parties by the

Criminal Clerk's Office. A defendant may be placed on probation with Court Services so that the restitution can be monitored. Failure to comply with the judge's order will result in the defendant being arrested or served with a show cause summons to return to court. The complainant should notify the Court in writing once full payment of restitution is received or if the defendant fails to comply with the Restitution Order.

3:25 Witness Reimbursement

All witnesses summoned for the Commonwealth are entitled to receive, for each day's attendance, reimbursement for daily mileage or, in some instances, travel, lodging, and meal expenses at the current Supreme Court rate. To obtain reimbursement, the witness must make application on a DC-40 form at the Criminal Clerk's Office on the date of the court appearance and provide a copy of the subpoena and complete a W-9 tax form. Receipts are required for any travel or lodging expenses, and travel must be by the least expensive mode available. The Supreme Court does not reimburse any witness subpoenaed for the defendant.

3:26 Request for New Trial

All motions for a new trial or for reconsideration of sentence shall be by motion in open court, pursuant to the Code of Virginia, §16.1-133.1. Such motions must be made in writing on the appropriate form available in the Criminal Clerk's Office and must be filed and heard within sixty calendar days of conviction. If filed before 8:30 a.m., the motion may be heard on the same day. Any motion filed after 8:30 a.m., will be heard on the next day court is in session, unless specified otherwise. Whenever possible, these motions will be heard by the original sentencing judge. One exception is on cases that were initially tried in the defendant's absence - these motions are heard in Criminal II.

A motion for a new trial does not take the place of an appeal or extend the time for appeal. In order to guarantee a new trial, an appeal must be filed within 10 calendar days from the date of conviction.

Motions for a new trial or for reconsideration of sentence on cases in the **City of Fairfax** should be filed in the City Clerk's Office to be heard at City Hall on a Tuesday or Thursday. For cases in the **Town of Vienna** or the **Town of Herndon**, motions must be filed in the Criminal Clerk's Office, Room 204 in the Fairfax County Courthouse, and scheduled to be heard on a Monday in Vienna or a Wednesday in Herndon. A motion for reconsideration of sentence is usually heard by the original sentencing judge; therefore, these motions may be scheduled for hearing at the Fairfax County Courthouse instead of in the City or towns.

3:27 Appeals

Appeals must be noted in writing within ten calendar days from the date of conviction. (Note: Begin counting day one on the day after conviction. If the tenth day falls on a day when the Court is closed, such as a holiday or weekend, then the appeal period extends to the next day the Court is open.) An appeal may be noted by a defendant or by the defendant's attorney by appearing at the Criminal Clerk's Office to complete the appropriate forms. If a defendant has been sentenced to serve time in jail, the presiding judge may set a bond or increase an existing bond to guarantee the defendant's appearance in Circuit Court. If a new bond is set for the appeal date and the defendant is not incarcerated on the conviction, the **defendant must appear** (not counsel) at the Criminal Clerk's Office to post the bond and sign the bond form. At the time of appeal, the Clerk's Office will assign a trial date in Circuit Court for any defendant not requesting a jury trial. If a jury trial is requested at appeal, then the defendant will be assigned a return date in the Circuit Court for later selection of a jury trial date.

3:28 Expungement of Record

Most cases that are eligible for expungement require the filing of a petition in the **Circuit Court** in order to have the record expunged in the General District Court. These include cases in the General District Court in which the defendant is charged with the commission of a crime and,

1. is acquitted, or
2. a *nolle prosequi* is entered, or the charge is otherwise dismissed (including by accord and satisfaction pursuant to the Code of Virginia, §19.2-151).

Expungements in Circuit Court require a certified copy of the General District Court case. Most older case files are stored off-site with the County Archivist. See [Section 1:10](#) to determine how to obtain a certified copy. For information on how to file an expungement in Circuit Court, please check their Web site at http://www.fairfaxcounty.gov/courts/circuit/civil_case_info.htm.

Although the majority of expungements will be filed in the Circuit Court, there are certain conditions pursuant to the Code of Virginia, §19.2-392.2 when expungement may be requested in the **General District Court** for the following types of dismissed cases:

1. *the person's name or other identification have been used without his consent by another person who has been charged or arrested using such name or identification (§19.2-392.2(B)), or*
2. *the Court finds that the person arrested or charged is not the person named in the summons or warrant (§19.2-392.2(H))*

A request for expungement may be made at the time the judge grants the dismissal of the case for mistaken identity or by motion filed in the General District Court with the Criminal Clerk's Office at a later date. All requests should be filed on the "Petition or Motion for Expungement" form (DC-363), available at the Clerk's Office. A full set of the petitioner's fingerprints obtained from a law enforcement agency must be submitted with all expungement requests. Expungement is not automatically initiated by the Court; it must be requested.

PART FOUR
SMALL CLAIMS PRACTICE AND PROCEDURE

4:1 Filing Small Claims Action

A Small Claims action may be filed with the Civil/Small Claims Division, Monday through Friday, between the hours of 8:00 a.m. and 4:00 p.m. Small Claims is for non-lawyers and the forms must be filled out by the plaintiff who is representing himself or herself or is acting as a regular and actual employee of a corporation or partnership. See the Code of Virginia, §16.1-122.1 through §16.1-122.7.

A Small Claims action may be brought by a Warrant in Debt, when the plaintiff is seeking a money judgment of \$5,000 or less, or a Warrant in Detinue, when the plaintiff is seeking recovery of specific personal property valued at no greater than \$5,000. The return date must be within sixty days after service, and all parties should be ready for trial on the return date.

4:2 Landlord Tenant Cases

There is no provision for unlawful detainer actions seeking possession of real property in the Small Claims Court. Unlawful detainer cases are heard in the Civil Division of the Court.

4:3 Limitation on Number of Cases

No party shall set more than five new cases returnable to any one day on the Small Claims Docket.

4:4 Counsel

Attorneys may not serve in a representative capacity in the Small Claims Division of the General District Court (Code of Virginia, §16.1-122.4). Attorneys are permitted to file removals, appeals, and suggestions of bankruptcy on behalf of a party. Garnishments and other collection processes, when filed by an attorney on a small claims judgment, will be made returnable to the Civil Docket in Courtroom 2A.

All parties shall represent themselves in actions before the Small Claims Court except as follows:

1. A corporate or partnership plaintiff or defendant may be represented by an owner, a general partner, an officer, or an employee of that corporation or

partnership. An attorney may serve in this capacity if he is appearing pro se, but he may not serve in a representative capacity.

2. A plaintiff or defendant who, in the judge's opinion, is unable to understand or participate on his own behalf in the hearing may be represented by a friend or relative if the representative is familiar with the facts of the case and is not an attorney.

4:5 Fees

See Civil Fees, [Section 2:6](#).

4:6 Service of Process

Notice of process shall consist of a copy of the warrant and shall be served by the method used in the Civil Division of the General District Court. (See [Sections 2:7](#) and [2:8](#).)

4:7 Continuances

Trials are heard on the initial return date. Prior to the initial court date, a continuance may be granted if the new date is available and **agreed to** by all parties. Continuances requested without agreement of all parties may be granted only by a judge for good cause shown.

4:8 Removal of Cases to the Civil Division of the General District Court

A defendant has the right to remove his case to the Civil Division of the General District Court at any point preceding the handing down of the decision of the judge. The defendant (or the defendant's attorney) should complete and sign the "Removal to General District Court" form on the back of the warrant and submit it to the Clerk's Office or hand it to the judge in the courtroom. On the initial Small Claims court date, any case for removal should be identified to the clerk prior to the start of court so it may be called at the beginning of the docket. The removal will be signed in court and a trial date in the Civil Division and dates for any pleadings will be selected. No fees are involved.

4:9 Dismissal and Non-Suit of Pending Cases

The plaintiff may dismiss or non-suit a case at any time prior to the judge's decision as long as notice is provided to the defendant and there is no counter-claim pending.

Notice of a second or subsequent non-suit of a case requires a motion with notice to the defendant. Notice must include the date and location of any prior non-suits.

4:10 Docket Call

The Small Claims Docket shall be called by the presiding judge at 9:30 a.m. on Fridays usually in Courtroom 2G. Other dates and times may be established at the discretion of the Court. All cases returnable for trial that date will be called originally to determine if the parties are present and ready to go forward. The judge shall first consider all requests for removal, grant uncontested judgments and review, approve, enter or deny all motions for continuance, interrogatory, show cause summons, garnishment order, and all other preliminary requests by litigants. Trials will then be heard at the conclusion of the calling of the docket. Contested cases may be transferred to other courtrooms for trial as other judges become available.

4:11 Mediation

Mediation is offered free of charge to the parties in Small Claims on the trial date. Representatives from Northern Virginia Mediation Services are present in the courtroom and will explain the procedure prior to the start of court at 9:30 a.m. The use of mediation is voluntary and must be agreed to by all parties. If mediation is requested, the judge will pass over the case while the parties and the mediator attempt to reach an agreement outside the courtroom. At the conclusion of the mediation session, parties will return to the courtroom with an agreed order for the judge's signature. Generally, a mediated agreement results in the case being continued for final settlement and payment, or the case may be dismissed by consent of the parties. If the case cannot be settled through mediation, the parties must return to the courtroom for the judge to hear the trial.

Once signed by the judge, mediated agreements are binding and may be enforced in court. However, either party may file a motion with the Clerk's Office placing the case on the docket to request that the judge dissolve the mediated agreement and reschedule the case for trial. These motions are heard on an available Friday and require proper notice to the opposing party.

Northern Virginia Mediation Services may be reached at 703-865-7272 or on their Web site at <http://www.nvms.us>.

4:12 Contested Cases

All cases in Small Claims are returnable to the trial docket on the initial court date. Parties should plan as though they will be going to trial on the initial court date by preparing any documents and filing a subpoena for any needed witness. At the end of

the trial, the judge will enter a final disposition, usually either a judgment for the plaintiff or the defendant.

4:13 Requests for Subpoenas for Witnesses and Records

Witness subpoenas should be filed at least ten days prior to trial on the appropriate forms furnished by the Clerk's Office and accompanied by the \$12 sheriff's service fee per party to be served. The Court cannot guarantee service on any request not timely filed.

There is no provision in Small Claims Court for subpoena duces tecum of records and documents. If records or documents are needed, the suit may have to be refiled by the plaintiff in the Civil Division of the General District Court or removed to that court by the defendant.

4:14 Requirement for Filing of Further Pleadings

Upon request, the judge may, when he deems it necessary, require a "Grounds of Defense" to be filed by the defendant. This must be requested by the plaintiff at the time of filing and reviewed by the judge prior to issuance of the warrant. The prescribed method and date for filing the grounds of defense will then be served on the defendant along with the warrant in debt. Since this is a less formal court, grounds of defense are not usually required. There is no provision in the Small Claims Court for requesting that the plaintiff file a bill of particulars.

Counter-Claims are allowed for amounts up to the Small Claims jurisdictional limit. Although no filing fee is required on a counter-claim, if service is requested through the Sheriff, then the \$12 sheriff's service fee is required for each party to be served.

4:15 Interpreters

Upon request, the Court will provide non-English language interpreters for Small Claims cases. The Civil/Small Claims Clerk's Office should be notified in advance, if possible, when an interpreter is needed.

The Clerk's Office should be notified at least two weeks in advance if an interpreter for a speech or hearing-impaired individual is needed. An assisted listening device is available upon request for any hearing-impaired party or witness. Requests for assistance can be made by e-mail to gdcmail@fairfaxcounty.gov or through the Clerk's Office.

4:16 Production of Written Agreement

The judge shall have the discretion to admit all evidence that may be of probative value although not in accordance with formal rules of practice, procedure, pleading, or evidence. Original documents, such as contracts, leases, and canceled checks, should be provided if available.

4:17 Interrogatory Summons

Examination of parties by interrogatory proceedings shall be held in open court at the conclusion of the docket call. Out-of-court interrogation of responding parties may be permitted at the discretion of the judge and with the consent and agreement of the party to be interrogated informally or after the oath is administered in open court by the judge. No interrogatory summons shall be continued more than one time. A sheriff's service fee of \$24.00 per party to be served is required at the time of filing, as well as the \$46 filing fee.

If a party fails to appear after being properly served with an interrogatory summons, the judge may authorize the issuance of a show cause summons for contempt or a capias warrant for arrest. The judge will set a specific date for the show cause or capias to be returned to court. (See [Section 4:19.](#))

4:18 Garnishment Summons

Small Claims Garnishments are returnable to a Friday at 9:30 a.m. If filed by an attorney, these Garnishments may be returnable Monday through Thursday at 9:30 a.m. in Courtroom 2A. For additional information, see Civil Garnishment Summons, [Section 2:25.](#)

4:19 Show Cause and Capias

After a judge authorizes a show cause or capias for failure to appear on an interrogatory or failure to respond on a garnishment, the requesting party should proceed to the Clerk's Office to complete the Show Cause Summons (Form DC-481) or Capias (Form DC-483) and pay the sheriff's service fee of \$12.00 per party to be served. These actions must be served by a sheriff; service by private process is not permitted. There is no filing fee for either of these actions.

The forms should be filed as soon as possible after the show cause or capias is authorized in court because there will be no continuances for the submission of the necessary paperwork. If the forms are not submitted, the show cause or capias will be dismissed on the return date and the judgment creditor will have to start again with

the garnishment, or wait six months to begin interrogatories again. Once issued and served, such pleadings may be dismissed only by a judge for good cause shown.

4:20 Appeals

Either the plaintiff or the defendant has the right to appeal to the Circuit Court any decision of the Small Claims Court where the amount in controversy exceeds \$50. Appeals must be noted **in writing** within ten calendar days of judgment and perfected within thirty calendar days of the judgment by posting any required bond, writ tax, and circuit court notice fee. (Note: Begin counting day one on the day after judgment. If the tenth or thirtieth day falls on a day when Court is closed, such as a holiday or weekend, then the appeal period extends to the next day Court is open.) An appeal may be noted by a party or by the attorney for such party (see Virginia Supreme Court Rule 7A:13 for exceptions). The DC-475, Notice of Appeal form, is available at the Clerk's Office for noting an appeal. Notice and perfection of appeals shall be filed with the clerk during business hours, Monday through Friday, unless otherwise authorized by a judge.

Most appeals must be perfected in person at the Clerk's Office so that the bond and fees may be receipted. A judge will determine the amount of bond, if any, needed to perfect an appeal. No **indigent** person shall be required to post an appeal bond. Qualification for indigent status is determined by a judge at the time of appeal. The writ tax and notice fee can only be waived by the Circuit Court. Before filing an appeal, the party must check with the Clerk's Office as to the amount of the bond and fees. The writ tax and notice fee must be paid by cash or postal money order only. All bonds must be in the form of cash, postal money order, corporate surety, or by an insurance company's letter of irrevocable liability coverage. When bond is by corporate surety, a bondsman must appear before the clerk to sign the appeal form. An insurance company's liability statement must be on letterhead and specify the amount of the judgment to be covered.

An attorney may appeal a case on behalf of a plaintiff or defendant in the Small Claims Court. If an attorney is filing the appeal, the writ tax and notice fee may be by attorney's check payable to the Circuit Court and the bond may also be by check written on an attorney's escrow account with Bar ID number and payable to the General District Court or Circuit Court.

An appeal may be withdrawn in the General District Court or in the Circuit Court. If the appeal has not been perfected by posting a required bond or paying costs, or within ten days after entry of judgment when no bond is required, the appeal may be withdrawn by filing written notice in the General District Court with copies to all parties or their counsel. When an appeal is withdrawn in the General District Court, the original disposition stands. After the appeal is perfected by posting the bond or paying costs, or after ten days have elapsed since the entry of the judgment when no bond or costs are required, the appealing party may request that the appeal be

withdrawn by filing notice in the Circuit Court with copies to all parties or their counsel. If the withdrawal is approved, the Circuit Court will enter an order reaffirming the judgment entered in the General District Court (see Code of Virginia, §16.1-106.1). The case remains in the Circuit Court.

4:21 Satisfaction of Judgment

Pursuant to the Code of Virginia, §16.1-94.01, once a judgment has been satisfied the judgment creditor must notify the Court **in writing** of this satisfaction within 30 days of payment or satisfaction of the judgment. A Notice of Satisfaction of Judgment form (DC-458) is available in the Clerk's Office and online at www.courts.state.va.us for this purpose. It complies with the code section that states: *Such notice shall include the docket number, the names of the parties, the date and amount of the judgment, and the date of the payment or satisfaction.*

If the judgment creditor fails to notify the Court within thirty days of satisfaction of judgment, then the judgment debtor may file a motion requesting that the Court order the judgment to be marked satisfied after notice to the judgment creditor. Upon sufficient proof, the judge can also order the judgment creditor to pay the judgment debtor's costs. A Motion for Judgment to be Marked Satisfied form (DC-459) is available in the Clerk's Office and requires the \$46 filing fee plus the Sheriff's service fee of \$12 per person to be served. The Court's disposition of the motion may be appealed to the Circuit Court if the original judgment principal is greater than \$50.

If a judgment debtor wishes to satisfy the judgment but cannot locate the judgment creditor, the Code of Virginia, §16.1-69.55, provides that payment of the judgment may be made to a court of record. The process requires that the judgment debtor obtain an abstract of judgment from the General District Court, pay docketing fees to the Circuit Court, and then file a motion in that court to pay the judgment into an interest bearing account in the Circuit Court so that the judgment may be ordered satisfied. A certified copy of the signed Circuit Court order should be supplied to the General District Court.

PART FIVE
TRAFFIC COURT PRACTICE AND PROCEDURE

5:1 Courtroom Assignment

Cases will be assigned to one of either five or six courtrooms. The docket listing indicating courtroom assignments scrolls on monitors located next to Courtrooms 1A and 1E on the day of court. All cases are listed alphabetically by defendant's last name with the courtroom assignment noted next to the name.

5:2 Docket Call

The presiding judge in each courtroom shall begin calling the docket at 9:30 a.m., starting with the officer with the least number of cases.

All pleas of guilty shall be determined and disposed of during the docket call.

All pleas of not guilty or *nolo contendere* may be either set aside and heard as a contested case at the conclusion of the docket call, or heard during the initial call of the docket, at the sole discretion of the presiding judge, except in accident cases. The Court's policy is to not subpoena witnesses in accident cases unless the defendant first appears and enters a plea of not guilty or enters a written plea of not guilty. In these instances, the case will be continued to the officer's next court date to allow sufficient time to subpoena the witnesses. Witnesses are generally not subpoenaed for the first court date on DWI cases (see [Section 5:24](#)), which are continued for trial.

If a defendant fails to appear on any infraction or accident case, the judge, at his discretion, may try the case in the defendant's absence.

5:3 Trial Advisement and Plea Form

The Court's blue Trial Advisement and Plea form is available in all traffic courtrooms. The top portion of the form contains the advisement of rights required by Supreme Court Rule 7C:6 for those charged with an offense punishable by jail. The lower half of the form contains space for the prosecutor's recommended disposition, if any. Attorneys are required to complete the top portion of the form with their clients on allailable offenses, even if they do not intend to obtain the prosecutor's recommendation.

No changes or additions to the written and signed recommendation will be allowed unless the prosecutor initials the changes or is present in the courtroom and agrees to the changes at the time the form is submitted to the judge.

5:4 Bond Reduction Motions

All motions for a bond reduction must be filed in writing with the Traffic Clerk's Office by 3:00 p.m. on the business day prior to the requested hearing date, with appropriate notice to the Commonwealth's Attorney **and Court Services Division**. Forms for this purpose are available from the Traffic Clerk's Office and the Court Services Division. See Appendix, "[Motion for Bond Reduction](#)" or on the Court's Web site: www.fairfaxcounty.gov/courts/gendist. All bond reduction motions are heard at 8:30 a.m. in Courtroom 2G. If the defendant also has criminal charges pending and the bond reduction motion includes these charges, the Criminal Clerk's Office must also be notified so that the case papers will be brought to the courtroom.

Bond reduction motions on traffic cases in the **City of Fairfax** should be filed with the City Court Clerk's Office (City Hall, Room 101) with notice to the City Prosecutor, John Kassabian (703-750-3622). Motions will be heard at the Fairfax County Courthouse at 8:30 a.m. in Courtroom 2G, Monday through Friday, **not** in the City.

Bond reduction motions on cases in either the **Town of Herndon or the Town of Vienna** must be filed with the Fairfax Traffic Division Office located in Room 106 in the Fairfax County Courthouse. Follow the procedures as noted above with the exception that the Herndon Prosecutor, Manuel Capsalis (703-525-2260), or Vienna Prosecutor, Steven Briglia (703-883-0880) must be notified instead of the Commonwealth's Attorney. Bond reduction motions on town traffic cases will be heard at 8:30 a.m. in Courtroom 2G in the Fairfax County Courthouse, **not** in the towns.

5:5 Discovery Motions

Agreed requests for discovery, signed by the Commonwealth's Attorney or other prosecuting attorney, should be filed with the Clerk's Office before the court date, and the attorney should advise the clerks that the motion is already signed and therefore will not require a hearing. Contested requests for discovery, or requests for an early response due date, require a motion and hearing. The motion should be filed in the Traffic Clerk's Office, with notice to the Commonwealth's Attorney or other prosecuting attorney, at least ten days prior to the trial. Any motion filed in the Clerk's Office before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m. in Courtroom 1D or other assigned courtroom, unless specified otherwise. Responses to discovery are returnable to the Court by 9:00 a.m. on the trial date. See Rules of Virginia Supreme Court, Rule 7C:5, for additional information and

requirements. See Appendix, “Discovery Order” or at www.fairfaxcounty.gov/courts/gendist.

Motions for Discovery on cases in the **City of Fairfax** should be filed at the City Court (City Hall, Room 101), with agreed motions requiring the signature of the city prosecutor. Contested motions require notice to the city prosecutor and will be heard on a Tuesday or Thursday at City Hall when court is in session.

Motions for Discovery on cases in the **Town of Vienna or the Town of Herndon** should be filed with the Traffic Clerk’s Office in Room 106 in the Fairfax County Courthouse. Agreed motions require the signature of the town prosecutor. Contested motions will be heard in the proper town court of Vienna (Mondays) or Herndon (Wednesdays) at 9:30 a.m. after notice to the town prosecutor.

5:6 Other Motions

Motions for Release of Vehicle under Administrative Impoundment, Form DC-499, ([Code of Virginia](#), §46.2-301.1), Motions for Review of Administrative Suspension of Driver's License/Driving Privileges, Form DC-202, ([Code of Virginia](#), §46.2-391.2), and Motions for Transmission of Blood Samples, Form DC-303, ([Code of Virginia](#), §18.2-268.7) must be filed in the Traffic Clerk's Office in Room 106. (See [Sections 5:7](#) and [5:8](#) for time requirements.)

Motions pertaining to **City of Fairfax** cases should be filed with the City Clerk’s Office (City Hall, Room 101) and scheduled for hearing in the City Court on a Tuesday or Thursday. Motions on cases in the **Town of Vienna or the Town of Herndon** should be filed with the Traffic Clerk’s Office in Room 106 in the Fairfax County Courthouse and scheduled to be heard on the 9:30 a.m. traffic docket at the Fairfax County Courthouse. These motions are heard in various traffic courtrooms at the Fairfax County Courthouse, so interested parties will need to consult the monitors for courtroom assignments. (Note: Requests for Transmission of Blood Samples are usually handled by review in Chambers. Docketed motions are heard in the Towns.)

The appropriate Commonwealth's Attorney or City or Town Prosecutor must be notified of the court date at the time of filing. Denial of these motions must be appealed within ten calendar days. An appeal of a motion on Transmission of Blood should be filed in the Traffic Division. Impoundment and Administrative Suspension are civil in nature and appeals require posting the writ tax and notice fee, plus signing an appeal form in the **Civil Division** in Room 211.

5:7 Administrative Impoundment of Motor Vehicle (§46.2-301.1)

Any driver who is the owner of a vehicle impounded under the [Code of Virginia](#), §46.2-301.1, may petition the General District Court to review the impoundment (see [Section 5:6](#) above) during the thirty-day administrative impoundment period. Motion

and Order for Release of Vehicle forms (DC-499) are available at the Traffic Clerk's Office and online at www.courts.state.va.us. The motion must be filed by 8:30 a.m. in order to be placed on that day's 9:30 a.m. traffic docket. Notice to the prosecutor is not required. If the driver/owner demonstrates to the Court by a preponderance of the evidence that there was no probable cause for either the arrest or the warrant, the court shall rescind the impoundment and the Commonwealth shall be obligated to either pay or reimburse the person for all reasonable costs of the impoundment.

An owner who was not the driver of the motor vehicle may also petition the Court on the basis that he did not know the license of the driver was suspended, did not consent to the use of the vehicle by the driver, or that the immediate family has only one motor vehicle and that the impoundment would result in substantial hardship. However, the release of an impounded motor vehicle under these circumstances will not result in reimbursement by the Commonwealth for the costs of impoundment.

If the underlying charge against the driver is dismissed, reduced to a lesser offense, or if he is acquitted on the charge, the impoundment is rescinded and the costs of impoundment will be paid by the Commonwealth. **Reimbursement or payment should be requested at the time of trial or motion.**

When a request for reimbursement is made by the person who incurred the costs of impoundment, a receipt from the towing company must be produced so the Traffic Clerk can process the reimbursement payment. Also, a DC-40 court form and a W-9 tax form must be completed at the counter or submitted.

5:8 Administrative Suspension of Driver's License (§46.2-391.2)

Any person whose license or privilege to drive has been administratively suspended pursuant to the Code of Virginia, §46.2-391.2 may file a motion with the General District Court to review the suspension within the suspension period (see [Section 5:6](#) above). The suspension period is 7 days on a first offense, 60 days or until the date of trial on a second offense, and until the date of trial on a third offense. Forms for the Motion for Review of Administrative Suspension of Driver's License/Driving Privilege (DC-202) are available at the Traffic Clerk's Office and online at www.courts.state.va.us. Motions must be filed by 3:00 p.m. in order to be placed on the 9:30 a.m. docket the following day. Notice of the motion must be provided to the prosecutor. If the driver fails to appear at the hearing without just cause, his right of review will be waived.

The Court shall rescind the suspension if the driver proves by a preponderance of the evidence that either the officer did not have probable cause for the arrest or that there was not probable cause to issue the petition or warrant. If the Court orders the suspension to be rescinded, the license shall be promptly returned to the driver, unless the license has been otherwise suspended or revoked. The clerk shall give to the driver a certified copy of the order rescinding the suspension and transmit the order to

the Division of Motor Vehicles (DMV). The driver should carry the certified copy of the order of rescission with him for the remainder of the rescinded suspension period in case he is stopped before the signed order reaches the Division of Motor Vehicles.

Following the granting of a motion to rescind, or at the expiration of the suspension period, the driver's license may be picked up at the Traffic Clerk's Office. All licenses not personally picked up are mailed to the license holder the day after the expiration of the suspension.

If the driver is tried and acquitted of the underlying charge or the charge is reduced after the period of suspension has expired, or the charge is dismissed either during that period or at trial, the administrative suspension is immediately rescinded. The Clerk's Office will automatically notify DMV.

5:9 Determination as to Requirement for Counsel and Information on Attorney Dates

In each individual case, the judge shall determine if the charge is such that the defendant must either be represented by counsel or waive the right thereto (Class One and Class Two misdemeanor charges). When it is determined that counsel or a waiver thereof is required, the judge shall so inform the defendant in accordance with the Code of Virginia, §19.2-157.

When a defendant indicates his desire to retain counsel, the judge shall continue the case to the officer's or complainant's next available court date for trial. Also, the judge may require the defendant to sign a "Waiver of Counsel" form to allow the case to proceed on the trial date whether or not counsel has been retained, or the judge may assign an intermediate Information on Attorney date (IAD) for the defendant to return to Court with written confirmation that an attorney has been retained (a pink sheet is given to the defendant in court by the clerk for this purpose). If the Court receives the "Information on Attorney" sheet signed by the attorney, prior to the IAD date, the defendant does not have to appear on that day. If the sheet is not returned, the defendant must appear in court to explain why an attorney has not been retained. Any defendant who fails to appear or otherwise comply with the IAD requirements, may be subject to the issuance against him of a capias arrest warrant, show cause, and/or a notice of bond forfeiture to the defendant or any bondsman or third party surety, as the Court deems appropriate. Any cash bond posted by the defendant will be forfeited without further notice.

If any defendant charged with a Class One or Class Two misdemeanor desires court appointed counsel, the judge may appoint a public defender to handle the case on the same day or continue the case to the officer's or complainant's next court date for trial and send the defendant to the Court Services Division in Room 203 for an interview to determine eligibility. In the **City of Fairfax**, the **Town of Vienna**, and **Town of Herndon**, an available clerk will conduct the interview as time allows. Following the

interview, the case will be called again in the courtroom and the judge will either approve or deny the request based on whether or not the defendant qualifies. If the defendant qualifies, counsel shall be appointed and the defendant advised of his trial date by the clerk or judge. If the defendant does not qualify, he shall be permitted the right to retain counsel as provided hereinbefore. Prior to the court date, any defendant desiring court appointed counsel may be interviewed by Court Services personnel in Room 203 in the Fairfax Courthouse at least ten business days prior to trial, between the hours of 9:00 a.m. and 11:00 a.m., Monday through Friday.

If any defendant charged with a Class One or Class Two misdemeanor desires to waive his right to counsel, he shall be required to execute a "Waiver of Counsel" form.

5:10 Appearance and Substitution of Counsel

An Appearance of Counsel form should be filed on all cases where a defendant is represented by counsel. These forms are available in the Clerk's Offices and all courtrooms, as well as on the Court's Web site at www.fairfaxcounty.gov/courts/gendist.

Once counsel has entered an appearance or been appointed to a case, counsel may not withdraw without leave of Court after notice to the client. Substitution of counsel will be granted by a judge with signed consent of defendant and both attorneys. A form to withdraw or substitute counsel is available at the Clerk's Office and should be filed there for submission to a judge. See Appendix, "[Appearance of Counsel](#)" and "[Motion to Withdraw or Substitute Counsel](#)".

5:11 Requests for Subpoenas for Witnesses and Records

Requests for subpoenas for witnesses should be filed at least ten working days prior to trial on the appropriate forms furnished by the Traffic Clerk's Office. The Court cannot guarantee service on any request not filed at least ten working days before trial. Additional time is required if the subpoena is to be served outside of Fairfax County. Service by private process may be approved by a judge for good cause shown prior to filing with the Traffic Clerk's Office. Defense counsel may issue a witness subpoena on their own, rather than requesting the subpoena through the Clerk's Office. A copy of the subpoena must be provided to the Court. The attorney-issued form is available at the Traffic Clerk's Office and on the Supreme Court's Web site at www.courts.state.va.us.

Witnesses for cases involving an accident are not subpoenaed for the initial court date. If the defendant appears on the initial court date and pleads not guilty or enters a written plea of not guilty, the case will be continued for trial and witnesses will be subpoenaed for the new date. Generally, witnesses are not subpoenaed for the first

court date on a charge of driving while intoxicated (DWI), either. See [Section 5:24](#) for additional information.

Requests for subpoenas duces tecum should be filed at least 15 working days prior to trial (or date documents are due) on Form DC-336 (original and three copies). Requests should be filed in the Traffic Clerk's Office for a judge's signature or may be filed as a motion with notice provided to the Commonwealth's Attorney or other prosecuting attorney. If filed in the Clerk's Office, the subpoena request will usually be reviewed by a judge within one day. The party requesting the subpoena may call the traffic call-back line (703-246-2336) after 10:00 a.m. on the next business day to find out if the request was approved. If a request for subpoena duces tecum is denied by the judge in Chambers, then the party may file the request as a written motion within the time prescribed and with notice to the appropriate prosecutor as described above. Any motion filed before 3:00 p.m. will be heard on the next day court is in session at 9:30 a.m., unless specified otherwise. If the request is to be served outside of Fairfax County, or if the documents required are not located within the local vicinity, the motion should be filed at least 21 working days prior to the trial date. All documents and records will be ordered returnable to the Court. Copies may be obtained at the Clerk's Office for 50 cents a page, or the attorney may supply a blank disk when requesting a copy of a CD or DVD. If evidence stored on a CD or DVD will be presented at trial, a Request for Technology form, available on the Court's web site at www.fairfaxcounty.gov/courts/gendist or at the Clerk's Office, must be submitted in advance.

Requests for subpoenas duces tecum on **City of Fairfax** cases are filed with the City Clerk's Office and motions are heard at City Hall on Tuesdays or Thursdays after notice to the city prosecutor. For cases in the **Town of Herndon** or the **Town of Vienna**, requests may be filed in the Traffic Clerk's Office in Room 106 in the Fairfax County Courthouse as noted above. Motions are heard in the towns, either on Mondays in Vienna or on Wednesdays in Herndon, after notice to the appropriate prosecutor.

5:12 Interpreters

The Court will provide non-English language interpreters for all traffic court proceedings and, in certain instances, for attorney-client interviews. Spanish interpreters are available daily for interpreting in court. Korean and Vietnamese interpreters are also available daily for the 9:30 a.m. dockets. Advance notice to the Court is not required. For all other languages, the attorney, defendant, or defendant's family member should notify the Traffic Clerk's Office in Room 106 of the Fairfax County Courthouse (703-246-3764) at least three days in advance of the court date to allow sufficient time for scheduling of the requested language interpreter.

The Clerk's Office should be notified at least two weeks in advance if an interpreter for a speech or hearing-impaired individual is needed. An assisted listening device is

available upon request for any hearing-impaired party or witness. Requests for assistance can be made by e-mail to gdcmail@fairfaxcounty.gov or through the Clerk's Office.

Court appointed counsel may request that Court Services (703-246-7530) schedule an interpreter to assist with attorney-client interviews if no other arrangements can be made. The interview will be scheduled in a private room at the Fairfax County Courthouse during the afternoon when an interpreter is available. If the client is in jail, interpreters are usually available to assist with interviews at various times throughout the day. The Court provides non-English language interpreters for court proceedings and client interviews only. Private arrangements must be made for translation of documents.

5:13 Prepayments

The Supreme Court of Virginia designates by rule the traffic infractions for which a pretrial waiver of appearance, plea of guilty, and fine/costs payment can be accepted. Offenses which may be prepaid are listed in Virginia Supreme Court Rule 3B:2, the Uniform Fine Schedule. This schedule is applied uniformly throughout the Commonwealth and a clerk or magistrate may not impose a fine different from the amounts listed. The schedule does not restrict the fine a judge may impose in any case that is not prepaid and for which there is a court hearing. Court costs include both statewide and local fees.

If a defendant wishes to prepay one of the offenses listed, he may do so by mail, in-person, online at the Supreme Court's Web site, or by automated phone system. The amount of payment required may be obtained by listening to the Traffic Prepayment Recording (703-246-2364), visiting the court's Web site (www.fairfaxcounty.gov/courts/gendist) or the Supreme Court's Web site (www.courts.state.va.us), by using the automated Traffic Information Line (703-246-3764), or by calling the Magistrate's Office. Payments are accepted by mail and in person at the Traffic Clerk's Office in Room 106 or at the Magistrate's Office. If paying by mail, a copy of the summons should be included with the payment and sent to Fairfax County General District Court, Attn: Traffic, PO Box 10157, Fairfax, VA, 22038.

Individuals may prepay a traffic summons online by credit card using the Supreme Court's web site at www.court.state.va.us up until 3:30 p.m. the last business day before the court date. On the first page, under Quick Links, select "Pay Traffic Tickets and other Offenses," read the instructions and then click on General District Court Case Information (#2). Type the characters shown in the image for verification. From the drop down menu, select the Fairfax County or Fairfax City General District Court and type in your name (do not use your middle name) and click on Search. You may also pay by credit card using the automated Traffic Information Line at 703-246-3764 (press 2 and then 1, pausing between each number). The caller will be asked to provide either the summons or case number and must then supply other information

following the system prompts. See [Section 1:8](#) for additional information. A four percent processing fee is added for all credit card transactions. When prepaying over the Internet or through the automated phone line, parties must wait until the summons information has been entered into the Court's database. Case information is usually entered within one to three weeks after issuance but may take longer.

Prepayments for Fairfax County, **Herndon**, or **Vienna** cases will be accepted at the Magistrate's Office, located at the Fairfax County Adult Detention Center, until 11:30 p.m. two business days before the court date or at the Traffic Clerk's Office in the Fairfax County Courthouse until 4:00 p.m. on the day before the court date. Payments for **Fairfax City** cases will be accepted until 3:00 p.m. on the day before the court date at the Fairfax City Clerk's Office.

5:14 Continuances

No continuance shall be granted to either the Commonwealth or defendant as a matter of right on the original trial date of any case. The continuance of any case shall be authorized by a judge or by a clerk acting pursuant to authority granted by the Chief Judge. Such request for a continuance must be made according to the procedures described below.

It is the responsibility of the defendant or the defendant's attorney to contact the Court or to check online at www.courts.state.va.us to determine if a requested continuance is approved and if so, the new trial date. If the continuance is granted before the trial date, the requesting party may be required to notify any witnesses of the continuance.

If requesting a first continuance on a case involving an accident, the defendant must indicate whether he intends to plead guilty or not guilty. If the defendant intends to plead not guilty, witnesses will be subpoenaed and the case will be tried on the new date. The continuance procedures are as follows:

1st Continuance Request

Infractions: *Granted by the Clerk's Office, by phone, in-person, or automated phone system.*

Serious Misdemeanors including Driving Under the Influence, Speed to Elude, 2nd or Subsequent Driving on Suspended License (DOS), Reckless by Speed over 90, and Hit and Run – *Procedure varies depending on whether represented by counsel, as follows:*

When defendant is not represented by counsel

Requires filing of a motion by 8:30 a.m. with notice to the prosecutor and appearance before a judge who will determine whether to grant approval.

When defendant is represented by counsel (must be counsel of record with the Court)

Request taken over phone or at counter to be submitted for judge's approval.

***Exception:** A DWI charge requires a written request signed by the prosecutor (agreed continuances handled by the Clerk).*

2nd and Subsequent Requests

Infractions: Request taken over phone or in-person to be submitted for judge's approval.

Serious Misdemeanors Same as above for 1st request, except:

Driving Under the Influence and Cases Involving Accidents (when defendant is represented by counsel) Requires written request, consent of the Commonwealth's Attorney or City or Town Attorney, and approval of a judge.

When written request and approval of a judge is required, defense counsel must first obtain a continuance request form from the Traffic Clerk's Office or on the court's Web site at www.fairfaxcounty.gov/courts/gendist. **See Appendix, "Criminal/Traffic Continuance Request"**. On all Driving While Intoxicated cases and a second or subsequent accident case request, counsel is required to obtain the signature of the Commonwealth's Attorney or appropriate City or Town Attorney before filing the continuance request form in the Traffic Clerk's Office.

All continuance requests that require a judge's approval must be submitted no later than two business days prior to the court date. Most requests that require approval are reviewed by a judge within one working day of filing. The party requesting the continuance must call the traffic continuance line (703-246-2336) between 10:00 a.m. and 4:00 p.m. on the next business day to determine if the continuance request was approved. If the officer's next court date is known, the clerk will provide the new date on approved continuances. Otherwise, the Traffic Clerk's Office must be contacted after the initial court date to obtain the new trial date. The new court date may also be obtained online at www.courts.state.va.us under Case Information by selecting General District Courts and then using the drop down menu for Fairfax County. Notices of the new date are also mailed two days after the initial court date to the defendant's address listed on the summons or warrant. Any continuance request that is denied by a judge in Chambers may still be filed as a written motion to be heard in open court.

In the event of an emergency, the clerk can place a note on the case up until 9:15 a.m. the morning of court to request a continuance. This note does not guarantee a continuance and it may be extremely difficult to contact the Traffic Clerk's Office by phone in the morning prior to court. The party requesting the continuance must call back after 2:00 p.m. on the court date or check online at www.courts.state.va.us for the judge's decision.

5:15 Failure of Defendant to Appear on Summons

If a defendant fails to appear on a summons for a Class One or Two misdemeanor violation, the Court shall continue the case to the officer's next court date and direct the clerk to issue a capias warrant of arrest for failure to appear.

If a defendant fails to respond to a summons for a traffic **infraction**, he shall be tried in his absence and an additional \$35 trial-in-absence fee shall be assessed. On conviction, a notice of the amount due will be mailed to the defendant at the address on file.

5:16 Failure of Defendant to Appear on Warrant

If any defendant shall fail to respond to a warrant for any violation, the Court shall continue the case to the officer's next court date, and direct the issuance of a capias warrant of arrest on the defendant for failure to appear and/or a notice of bond forfeiture to the defendant or any bondsman or third party surety. Any cash bond posted by the defendant will be forfeited without further notice.

5:17 Bond Forfeiture

If a defendant released on a secured bond fails to appear in court, any cash bond posted by the defendant will be immediately forfeited without further notice.

If a defendant fails to appear while on a bond secured by a bonding company or posted by a third party, then the judge will authorize a Show Cause Summons (Bond Forfeiture) against the bonding company and the insurance company or the third party within 45 days of the failure to appear, pursuant to Code of Virginia, §19.2-143.

On the court date, if the bonding company or third party is found in default, the show cause will be continued at least 150 days for entry of a civil judgment. When judgment is entered, any third party bond will be immediately forfeited. A bonding company and their surety will be sent notice stating that the judgment must be paid to the Court within 60 days. The bonding company and surety or third party have up to two years from the date of the finding of default (or four years if the defendant is incarcerated outside of Virginia) in which to surrender the defendant and file a motion requesting that the judge vacate the forfeiture or refund a portion of the forfeiture to offset their costs of producing the defendant. All motions must be filed with the Traffic Clerk's Office and require 48 hours notice.

5:18 Payment of Fines, Costs, and Fees

Any defendant convicted of a traffic infraction or misdemeanor shall pay all fines and costs immediately. The Traffic Clerk's Office will accept payments by cash, credit card, or check. A four percent processing fee will be added to all credit card transactions. A \$20 fee will be added to the amount due for any returned check or if a credit card payment is stopped after acceptance. **Fines, costs, and fees may be deducted from a defendant's cash bond held by the Court.** Extra time for payment of the fines, costs, and fees will be allowed **if requested in writing by the defendant.** However, an additional \$10 fee will be assessed if deferred payment is granted. The defendant must appear at the Traffic Clerk's Office within 15 days to complete the appropriate forms.

If deferred payment is not requested and any amount remains unpaid after 15 days, the Traffic Clerk's Office will notify the Division of Motor Vehicles to suspend the defendant's driver's license or privilege to drive in Virginia until the debt is paid in full, pursuant to the Code of Virginia §46.2-395. Before reinstatement, the defendant must contact DMV and pay a reinstatement fee. DMV may assess an additional fee if the suspension notice was served by a DMV or sheriff representative. See DMV's web site at www.dmvnow.com or call them at 804-497-7100 for additional information and requirements to reinstate a driver's license.

If the defendant fails to make payment initially or in accordance with a deferred payment agreement, any unpaid debt will be sent to the Court's collection agent. This may result in attachment of the defendant's wages, state income tax return, or other assets. After 40 days, interest is charged on all unpaid fines and costs at the rate allowed by the Code of Virginia (currently six percent).

5:19 Change of Address

The Traffic Clerk's Office should be notified of any change of **mailing** address for any defendant prior to conviction. The Court will send written notice to defendants within two days after conviction of the impending suspension of their license or privilege to drive a motor vehicle in Virginia if the fines and costs are not paid within 15 days of conviction. Pursuant to the Code of Virginia, §46.2-395, "Notice shall be provided to the person at the time of trial or shall be mailed by first class mail to the address certified on the summons or bail recognizance document as the person's current mailing address, or to such mailing address as the person has subsequently provided to the court as a change of address. No other notice shall be required to make the suspension effective."

5:20 Driving on Suspended Program

Defendants charged with driving on suspended may be eligible for the Court's Driving on Suspended Program if their driver's license was administratively suspended by the Department of Motor Vehicles (DMV)) for non-payment of fines and costs, failure to obtain insurance, or based on a civil judgment. Upon review in the courtroom of the defendant's driving record, the judge may continue the driving on suspended charge and refer the defendant to Court Services for entry into the Driving on Suspended Program. Court Services staff will determine the requirements necessary to reinstate the defendant's driver's license, monitor the defendant's progress toward this goal, and request continuances of the case as necessary so that payments may be made. Once the defendant provides receipts and shows proof of reinstatement with DMV, Court Services will advise the Court that the defendant is in compliance and the judge will dismiss the driving on suspended charge. The defendant is not usually required to return to court and court costs are not assessed. (See [Section 6:9](#) for further details.)

5:21 Suspension of Driver's License

If the Court orders a driver's license to be suspended, the suspension period starts when the license is surrendered to either the Court or the Department of Motor Vehicles, or 180 days from the date the judgment of the court becomes final, whichever occurs first. At the time the judge orders the suspension, the defendant will be asked to sign a DC-210 form, "Acknowledgement of Suspension of Driver's License."

5:22 Restricted Driver's License

A Restricted Driver's License (RDL) may be requested following suspension by a judge, suspension by Virginia DMV as a result of an out-of-state DWI conviction, or following suspension due to unpaid fines and costs, when the license would not otherwise be suspended.

Court or DMV Suspensions for DWI or Reckless Driving:

In appropriate cases following conviction of reckless driving or first or second offense of driving while intoxicated, the defendant may petition the Court for a restricted driver's license pursuant to the [Code of Virginia](#), §18.2-259.1(c). This may be done at the time of conviction or at a later date by motion. In the case of a second DWI conviction, a mandatory deferral period exists before an RDL may be considered. See [Section 5:24](#) for additional requirements on a DWI conviction. A restricted license may not be issued to operate a commercial motor vehicle.

Any motions must be filed with the Traffic Clerk's Office (Room 106) no later than 8:30 a.m. in order to be heard on that day's 9:30 a.m. docket. Any motion filed after

8:30 a.m. will be heard on the next day court is in session unless specified otherwise. Prior to issuance of a restricted driver's license, all fines and costs must be paid in full and the defendant must surrender a valid Virginia driver's license if licensed in Virginia (out-of-state licenses are not surrendered) and comply with any court-ordered participation in VASAP or other alcohol treatment program (VASAP is not required on convictions of reckless driving). A copy of the defendant's driving record and a compliance summary, both obtained from DMV no more than seven days prior to the motion date, must be provided to the judge in the courtroom for any motion filed after the conviction date.

An Application for a Restricted Driver's License (form DC-263) must be prepared in advance and submitted when the motion is filed for consideration by the presiding judge in the courtroom. This form may be obtained at the Clerk's Office and is also available online at www.courts.state.va.us in a revisable .pdf format that may be completed and printed for filing with the Court. **See Appendix, "Application for a Restricted License"**. On the Application, the petitioner must provide the Court with the specific purpose for the hours requested on the restricted license (see the Code of Virginia, §18.2-271.1E). Also, the form must include the name and address of any employer, school, daycare or medical provider.

For cases in the **City of Fairfax**, the Application and motion for a restricted driver's license must be filed with the City Clerk's Office no later than 9:00 a.m. in order to be heard on that day's 9:30 a.m. Tuesday or Thursday docket at City Hall. For cases in the **Town of Herndon** or the **Town of Vienna**, the Application and motion should be filed with the Traffic Clerk's Office, Room 106, in the Fairfax County Courthouse, as noted above. These motions will be heard by the original sentencing judge either at the town court or at the Fairfax County Courthouse.

Amendments to an existing RDL: A motion to amend the conditions of a restricted driver's license, including address changes, must be filed with the Traffic Clerk's Office or the Fairfax City Court as noted above. Such motions may be heard by the sentencing judge or other available judge. A copy of the defendant's driving record and a compliance summary, obtained from DMV no more than seven days prior to the motion date, must be provided to the judge in the courtroom. Also, a new Application for a Restricted License (Form DC-263) must be completed and submitted at the time the motion is filed. This form may be obtained from the Clerk's Office or online at www.courts.state.va.us (follow the prompts to traffic forms). If the motion to amend is granted, the defendant must surrender the previous RDL at the Clerk's Office before a new RDL will be issued.

Suspensions for Failure to Pay Fines and Costs in the 19th Judicial District (Fairfax County and Fairfax City): Anyone who has been suspended for failure to pay court ordered fines and costs, and whose driver's license would not otherwise be suspended, may apply for a Restricted Driver's License (RDL) pursuant to the Code of Virginia, §46.2-395(E) for a period of six months. A new application must be filed for any additional six months needed.

The “Petition for Authorization for Restricted Driver’s License – Failure to Pay Fines and Costs” (DC-270) is available in the Clerk’s Office and must be submitted along with the following: an initial \$50 payment to be credited toward the unpaid fines and costs; a copy of the defendant’s driving record and a compliance summary, both obtained from DMV within seven days prior to filing the petition; and proof of employment, such as a recent pay stub.

The DC-270 and other required documents should be filed with the Clerk’s Office. The request will be reviewed by a judge, usually within 24 hours. The requesting party will be contacted by telephone only if the request is denied. Otherwise, the signed “Authorization for a Restricted License” (form DC-271) can be picked up at the Clerk’s Office after 12:30 p.m. the next business day after filing. This is only an **authorization**, it must be taken to a full-service DMV for the actual RDL to be issued. If fines and costs are due to other courts in Virginia, an Authorization must be requested from each court separately.

If the defendant has unpaid fines and costs only with the Fairfax County General District Court, not with any other courts, then he may prefer to request a Restoration Plan with the Clerk’s Office rather than petition for an RDL. Under a Restoration Plan, the driver’s license is not restricted and may be extended longer than six months for payment of fines and costs.

5:23 Request for Certificate of Analysis

A defendant or defendant’s counsel of record may request from the Traffic Clerk’s Office a copy of any certificate of analysis in a case, pursuant to Code of Virginia, §19.2-187. The request must be in writing and filed at least ten days prior to trial on a DC-302 form, “Request for Copy of Certificate of Analysis.” This form is available at the Traffic Clerk’s Office and online at www.courts.state.va.us in a revisable ‘pdf’ computer format. Notice of the request must be supplied to the Commonwealth’s Attorney or the appropriate City or town prosecutor. Once admitted into evidence, the certificate of analysis becomes part of the public record.

5:24 Driving While Intoxicated

In the Fairfax County General District Court, the first court date on a charge of driving while intoxicated (DWI) will generally be continued and neither the Commonwealth nor the Defense will need to subpoena witnesses for this date. If the defendant appears with counsel, the prosecutor is to provide limited discovery as allowed under Rule 7C:5 to counsel, who are to make themselves available to the prosecutor. Trial will occur on this date only at the agreement of the parties. The second court date with counsel present is presumed to be the trial date, and no continuance will be granted except for good cause shown. Attorneys hired by unrepresented defendants after the defendant's second court date must be prepared for trial on the next court date. Defense counsel is responsible for checking the court file to determine whether there have been multiple court appearances by the defendant.

A conviction of DWI is subject to mandatory sentences as required by the Code of Virginia. These may include a mandatory fine, jail sentence, driver's license suspension and eligibility for a restricted driver's license, VASAP participation, and requirement for use of an ignition interlock device.

Participation in the Virginia Alcohol Safety Action Program (VASAP) is required for all first and second offense convictions of DWI. Only participation in a local certified VASAP program is permitted. The terms and conditions of court-ordered VASAP participation, including the granting or denying of permission for the defendant to receive a restricted driver's license are contained in the Restricted License Order & Entry into VASAP, (DC-265). The judge must require the defendant to pay the VASAP fee when entering the program unless the judge finds that the defendant is indigent. Failure to pay this fee may be grounds for revoking the VASAP participation or for suspending the driver's license. Following the end of a suspension, DMV will not return a suspended license to any person who has not completed a required VASAP program pursuant to a DWI conviction.

The court requires that all fines and costs be paid before issuance of a restricted driver's license (RDL). The defendant may petition for an RDL at the time of conviction or by motion on a later date. An [Application for Restricted Driver's License](#) (form DC-263), available in the Traffic Clerk's Office, must be filled out and submitted at the time of filing the motion when requesting an RDL. This form is also available online at www.courts.state.va.us and may be completed and printed for filing with the Court. On the Application, the petitioner must provide the Court with the specific purpose for the hours requested on the restricted license (see Code of Virginia, §18.2-271.1E). Also, the name and address of any employer, school, or daycare or medical provider must be provided. A copy of the defendant's driving record and compliance summary obtained from DMV no more than seven days prior to the motion date must be provided to the judge in the courtroom on any motion for an RDL filed after the conviction date. Prior to issuance of an RDL, the defendant must surrender a valid Virginia driver's license or permit if licensed in Virginia (out-of-state licenses are not surrendered).

The defendant must sign up for VASAP at the Traffic Clerk's Office, where an initial appointment for intake will be scheduled. All referrals to a VASAP program will be made through the Fairfax County ASAP program. If an individual does not reside in Fairfax County or is enlisted in the military, the Fairfax ASAP will refer him to another program without fee unless further monitoring is ordered by the court. The form, Restricted License Order & Entry into VASAP (DC-265), is issued by the Clerk's Office after obtaining the judge's signature and is given to the defendant to take to the local Fairfax ASAP office. After intake, Fairfax ASAP will endorse the back of the original of the order with a proof of enrollment and give it to the offender who must take it to DMV for issuance of a new restricted license.

A request for a restricted driver's license may be continued at the judge's discretion pending a review and letter of compliance by the Fairfax ASAP program. If Fairfax ASAP issues a letter recommending a restricted driver's license, then a motion must be filed to obtain the judge's approval for the issuance. Motions filed before 8:30 a.m. can be heard on the same day at the regular 9:30 a.m. docket call. However, such motions must be heard before the sentencing judge, thus it is recommended the petitioner call ahead to ensure the sentencing judge will be available. See [Section 5:22](#) for additional information on obtaining a restricted driver's license.

A resident of Fairfax County who has been convicted in another state of a DWI violation similar to the [Code of Virginia](#), Section 18.2-266, and whose privileges to operate a motor vehicle in Virginia has been revoked, may petition the General District Court to be assigned to Fairfax ASAP and issued a restricted driver's license. The petitioner needs to supply the Court with a certified copy of the conviction and a certified copy of his eleven-year DMV driving record. See [Section 5:22](#) for additional information on obtaining a restricted driver's license, including the need to provide a copy of the defendant's driving record and a compliance summary obtained from DMV no more than seven days prior to the motion date.

A motion to request removal of an ignition interlock device may be filed with the Traffic Clerk's Office in Room 106 before 8:30 a.m. in order to be heard on that day's 9:30 a.m. docket. Any motion filed after 8:30 a.m. will be heard on the next day court is in session unless otherwise specified. The ignition interlock device must be in place six months before a motion for removal of the device can be considered. Notice to the prosecutor is not required. A copy of the defendant's driving record and a compliance summary, both obtained from DMV no more than seven days prior to the motion date, should be provided to the judge in the courtroom. Whenever possible, these motions are heard by the sentencing judge, thus it is recommended the petitioner call ahead to ensure the sentencing judge will be available.

5:25 Motion for Transmittal of Blood Sample

Any defendant charged with Driving While Intoxicated who submitted to a blood test at the time of arrest may elect to have an independent laboratory analyze the blood sample at the defendant's expense. A Motion for Transmittal of Blood Sample (Form DC-303) must be filed with the Traffic Clerk's Office within 90 days of the offense. If the request is granted in Chambers, the Traffic Clerk will transmit the signed order to the Division of Forensic Science, who will then transmit the blood sample to the laboratory designated by the defendant on the order. This analysis shall be at the defendant's expense but, if applicable, may be submitted for reimbursement on a voucher by court appointed counsel.

5:26 Witness Reimbursement

All witnesses summoned for the Commonwealth are entitled to receive, for each day's attendance, reimbursement for daily mileage or, in some instance, travel, lodging, and meal expenses at the current Supreme Court rate. To obtain reimbursement, the witness must make application on a DC-40 form at the Traffic Clerk's Office on the date of the court appearance and provide a copy of the subpoena and complete a W-9 tax form. Receipts are required for any travel or lodging expenses, and travel must be by the least expensive mode available. The state does not reimburse any witness subpoenaed for the defendant.

5:27 Request for New Trial

All motions for a new trial or for reconsideration of sentence, shall be by motion in open court, pursuant to the Code of Virginia, §16.1-133.1. Such motions must be made in writing on the appropriate form available in the Traffic Clerk's Office and must be filed and heard within sixty calendar days of conviction. If filed before 8:30 a.m., the motion may be heard on the same day. Any motion filed after 8:30 a.m. will be heard on the next day court is in session at 9:30 a.m., unless specified otherwise. If the request for a new trial is granted, the original disposition will be vacated and the case set for a new trial on the officer's next court date.

A motion for a new trial does not take the place of an appeal or extend the time for appeal. In order to guarantee a new trial, an appeal must be filed in writing within ten calendar days of conviction.

Motions for a new trial or for reconsideration of sentence on cases in the **City of Fairfax** should be filed in the City Clerk's Office to be heard at City Hall on a Tuesday or Thursday. For cases in the **Town of Vienna** or the **Town of Herndon**, motions must be filed in the Traffic Clerk's Office, Room 106 in the Fairfax County Courthouse, and scheduled to be heard on a Monday in Vienna or a Wednesday in Herndon. A motion for reconsideration of sentence is usually heard by the original

sentencing judge; therefore, these motions may be scheduled for hearing at the Fairfax County Courthouse instead of in the City or towns.

5:28 Appeals

Appeals must be noted in writing within ten calendar days from the date of conviction. (Note: Begin counting day one on the day after conviction. If the tenth day falls on a day when the Court is closed, such as a holiday or weekend, then the appeal period extends to the next day the Court is open.) An appeal may be noted by the defendant, or by the defendant's attorney, by appearing at the Traffic Clerk's Office to complete the appropriate forms. If a defendant has been sentenced to serve time in jail, the presiding judge may set a bond or increase an existing bond to guarantee the defendant's appearance in Circuit Court. If a new bond is set for the appeal date and the defendant is not incarcerated on the conviction, the **defendant must appear** (not counsel) at the Traffic Clerk's Office to post the bond and sign the bond form. At the time of appeal, the Clerk's Office will assign a new trial date in Circuit Court for any defendant not requesting a jury trial. If a jury trial is requested at appeal, then the defendant will be assigned a return date in the Circuit Court for later selection of a jury trial date.

5:29 Expungement of Record

Most cases that are eligible for expungement require the filing of a petition in the **Circuit Court** in order to have the record expunged in the General District Court. These include cases in the General District Court in which the defendant is charged with the commission of a crime and,

1. is acquitted, or
2. a *nolle prosequi* is entered, or the charge is otherwise dismissed (including by accord and satisfaction pursuant to Code of Virginia, §19.2-151).

Expungements in Circuit Court require a certified copy of the General District Court case. Most older case files are stored off-site with the County Archivist. See [Section 1:10](#) to determine how to obtain a certified copy. For information on how to file an expungement in Circuit Court, please check their web site at <http://www.fairfaxcounty.gov/courts/circuit> under Civil Case Information.

Although the majority of expungements will be filed in the Circuit Court, there are certain conditions pursuant to the Code of Virginia, §19.2-392.2 when expungement may be requested in the **General District Court** for the following types of dismissed cases:

1. *The person's name or other identification have been used without his consent by another person who has been charged or arrested using such name or identification (§19.2-392.2(B)), or*

2. The Court finds that the person arrested or charged *is not the person named in the summons or warrant* (§19.2-392.2(H))

A request for expungement may be made at the time the judge grants the dismissal of the case for mistaken identity or by motion filed in the General District Court with the Traffic Clerk's Office at a later date. All requests should be filed on the "Petition or Motion for Expungement" form (DC-363), available at the Clerk's Office. A full set of the petitioner's fingerprints obtained from a law enforcement agency must be submitted with all expungement requests. Expungement is not automatically initiated by the Court; it must be requested.

PART SIX

COURT SERVICES DIVISION

6:1 Pretrial Release and Advisement Hearings

The Court Services Division provides information and makes recommendations to magistrates and judges to assist in their determination whether to release a defendant on personal recognizance, third party custody, or into the Supervised Release Program while awaiting trial. Court Services staff are available daily to interview incarcerated defendants and obtain data with regard to prior criminal history, employment, residence, and other pertinent information which would assist in determining the appropriate bond status. Information is also gathered with regard to eligibility for court appointed counsel. The information collected is confidential and may only be reviewed by a magistrate, judge, Commonwealth's Attorney, or defense counsel of record.

Recommendations regarding bond are first presented to the magistrate on duty at the Adult Detention Center. If the defendant is not released, recommendations are presented to the presiding judge at the 8:30 a.m. prisoner advisement hearing (see [Section 3:1](#)).

6:2 Bond Reduction Motions

All motions for bond reduction must include appropriate notice to the Court Services Division. Information collected by staff during the pretrial investigation process is given to the Commonwealth's Attorney on the morning of the motion and should be available for review by defense counsel in the courtroom prior to the start of court.

6:3 Supervised Release

The Supervised Release Program (SRP) provides community supervision for defendants awaiting trial who are released under special conditions by the judge or magistrate. To qualify for supervised release, a defendant must maintain a residence in the state of Virginia or the Washington Metropolitan area, maintain or be actively seeking employment, and have ties to the community. Additionally, the defendant must not be charged with or have a history of violent offenses. The defendant must agree to maintain contact with the program's staff, attend meetings and maintain contact with a substance abuse counselor if required, attend all court hearings pending final disposition, refrain from further violations of law, and agree to random urine screens, if required.

Court Services SRP staff review each defendant who remains incarcerated for several days after arrest to determine eligibility for the program. The Court will accept

requests from defense counsel seeking SRP for their clients at the Bond Reduction Motion Hearing. If the client is ordered into the program, the attorney should notify SRP staff in Room 203 in the Fairfax County Courthouse or by calling them at 703-246-7530. Once accepted into the program, a written participation agreement stipulating the conditions of release is signed by the defendant and the SRP probation officer.

For additional information on the supervised release program (SRP), see Court Services in Room 203 of the Fairfax County Courthouse or call 703-246-7530.

6:4 Court Appointed Counsel

The Court Services Division is responsible for assigning court appointed cases to either the Public Defender or private attorneys. The Division maintains a list of attorneys who are qualified with the Virginia Indigent Defense Commission and have indicated their willingness to serve as court appointed counsel in Fairfax. For further information, [see Part Seven](#) in this publication.

6:5 Appointment of Interpreters

The Court Services Division is responsible for the scheduling of interpreters, other than Spanish, for non-English speaking and speech or hearing-impaired defendants in criminal, traffic, civil and small claims cases. Spanish interpreters are scheduled by the Court's Spanish Language Coordinator in Room 203 and are available in the courtrooms daily. They do not have to be requested through the Clerk's Offices. Korean and Vietnamese interpreters are also available daily for the 9:30 a.m. dockets. If any attorney or officer is aware that an interpreter will be needed for a language other than Spanish, they should contact the appropriate Clerk's Office as early as possible but no later than three working days before the first court date. Interpreters for speech-impaired or hearing-impaired individuals should be requested at least two weeks in advance of the court date. For Civil or Small Claims cases, any attorney or party to a suit who is aware that an interpreter for any language will be needed for trial should contact the Civil Clerk's Office as soon as possible. Interpreters for Civil and Small Claims cases are scheduled only as needed.

With advance notice to the Spanish Language Coordinator (703-246-3585) or Court Services Division (703-246-7530), interpreters can be provided for court appointed attorney-client interviews of incarcerated defendants or clients out on bond. Contact the Court Services Division for more information concerning this service. The Court does not provide interpreters to assist in translation of documents.

6:6 Scheduling of Cases for Earlier Court Dates

The Court Services Division monitors the pretrial status of all incarcerated defendants and, whenever possible, arranges for earlier court dates for those defendants who cannot obtain bond while being held on misdemeanor charges. Defense counsel may request that Court Services staff "move up" a case onto an earlier docket for any defendant charged with a misdemeanor whose court date is more than one month away from the date of arrest. See [Section 3:9](#).

6:7 Community Probation Services

The Court Services Division provides probation supervision for certain misdemeanor offenders who have been sentenced to jail as well as to certain offenders convicted of Class 5 or Class 6 felonies. Offenders placed on probation by the Court must report to the Court Services Office in Room 203 immediately upon exiting the courtroom following assignment (or within 48 hours if referred from court in Vienna or Herndon). If released from jail after the office has closed, the offender must report to the Court Services Office by 11:00 a.m. on the next business day. Program staff will schedule monthly meetings with offenders and monitor their compliance with court ordered community service, restitution, substance abuse and mental health referrals, and payment of court fines and costs. Failure to comply with established conditions of probation, or any violations such as further arrests, will result in the offender being brought back before the sentencing judge to determine if all or part of the original sentence should be reimposed.

6:8 Alcohol Diversion Program

The Alcohol Diversion Program (ADP) is designed to provide probation supervision and services to defendants arrested on a first charge of underage possession of alcohol pursuant to [Code of Virginia](#), Section 4.1-305. The Court, upon a finding of guilt may, without entering a judgment of guilt, defer proceedings and place the defendant on probation subject to appropriate conditions. If approved by the judge, the case will be continued for four months and the defendant will be referred to the Court Services Division for placement in ADP. The program includes twenty-four hours of community service and a four hour education session, as required by law. At the end of the four month period a record check and compliance report will be provided to the Court. The charge will be dismissed if all components of the program have been successfully completed. As with all deferred dispositions, defendants must pay court costs.

6:9 Driving on Suspended Program

A judge may continue a case and refer a defendant charged with Driving on Suspended (or less frequently, driving without a license) to Court Services to be interviewed for eligibility into the Driving on Suspended (DOS) Program. This program is voluntary and is intended for those whose driver's license has been suspended for *administrative* reasons, including:

- failure to pay fines and costs ordered by a court, or failure to reinstate the license with DMV once payment has been made to the court;
- no current vehicle insurance or SR22 fee paid to DMV, as required;
- non-payment of court ordered child support;
- unpaid civil judgment resulting from a motor vehicle accident;
- excessive points on driving record, driver improvement course needed;
- valid license in another state but suspended in Virginia.

Court Services staff will conduct an interview and run a DMV report to determine if a defendant is eligible for the DOS Program. If the defendant is not eligible, usually because of a court ordered suspension or other reasons that prevent licensing, a letter will be placed in the case file and the defendant will be instructed to return to court on the next scheduled court date. If eligible and accepted into the program (a valid social security number and proper legal documentation of residency are needed), a Court Services staff member will advise the client regarding how to obtain a driver's license or have their suspension lifted.

Defendants are usually required to report to Court Services monthly for a status check and to determine if a court date needs to be continued to allow more time for the client to obtain their driver's license. The defendant may not drive or operate a vehicle until their suspension is lifted and they are properly licensed.

Once the defendant is legally licensed, Court Services will send a compliance letter to the judge and the driving on suspended charge will be dismissed. No court costs will be required when the charge is dismissed following successful completion of the DOS Program.

PART SEVEN
COURT APPOINTED ATTORNEY PROCEDURES

7:1 Court Appointed Attorney List

The Court Services Division maintains a list of attorneys who are qualified with the Virginia Indigent Defense Commission and have indicated their willingness to serve as court appointed counsel for defendants who meet the eligibility requirements. Any attorney wishing to be added to the Court Appointed Attorney List must fill out an application available in the Court Services Office in Room 203 in the Fairfax County Courthouse. In order to be added to the list, an attorney must:

- be licensed to practice in Virginia;
- maintain an office in Fairfax County or the City of Fairfax;
- provide a valid Virginia Bar Association card;
- complete and return a Court Appointed Attorney Application and W-9 form for tax identification;
- attend an orientation session offered by Court Services staff; and
- be certified by the Virginia Indigent Defense Commission.

Attendance at a Fairfax Bar Association CLE for Court Appointed Counsel or viewing of a CLE training video is also required.

7:2 Assignment Guidelines

The Court Services Division is responsible for assigning court appointed cases to either the Public Defender or private attorneys. Those cases not assigned to the Public Defender will be assigned to attorneys by the Court Services staff using an automated rotation system. Attorneys generally remain on the list for at least six months before being considered for felony cases, regardless of years of experience. This criterion may be waived by a judge. A separate list of more experienced attorneys, as approved by the Court, is maintained for serious felonies such as rape, robbery, or murder.

Before appointment of an attorney to any case, the Court Services staff will first contact the attorney's office to determine if he or she is available for the scheduled trial date. No continuances will be granted for conflicts in schedule.

Copies of the warrants and the List of Allowances form (DC-40) should be picked up by the attorney in the Court Services Division, Room 203. Incarcerated defendants are to be seen by their appointed counsel within two working days of the appointment.

Failure of an attorney to meet with the client within the specified time may result in the judge appointing a new attorney. No expenses will be allowed the first court appointed attorney if the case is reassigned for failure to meet with the client.

7:3 Case Assignment

Court Services staff will contact the attorney's office and speak with the attorney or a staff person who is authorized to accept cases. Court Services staff will provide the attorney with the defendant's name and charges, the court date and time, the defendant's bond status, and the case information and billing documentation. In most instances, this package of defendant information will be available for pick-up by the attorney in the Court Services Office by the next working day.

7:4 Attorney's Responsibilities

The attorney's responsibility is to ensure that the defendant is seen in a timely manner and receives quality service. Attorneys on the court appointed list must agree to the following:

1. Accept a case **only** if the following guidelines can be met:
 - A. Must meet with a defendant who is in jail within two working days.
 - B. Must meet with a defendant who is not in jail within seven days.
 - C. Appear for all subsequent court dates (See [Section 7:7](#) below).
2. Review the defendant's case and determine the most appropriate pretrial action if the defendant is still in jail, such as:
 - A. Bond Reduction Motion.
 - B. Motion for Referral to Supervised Release (SRP).
 - C. Contact Court Services to arrange moving up the court date.
 - D. Forensics referral (mental health evaluation).
 - E. Last alternative is to let the defendant stay in jail to receive credit for time served.
3. If the defendant is in jail on a misdemeanor charge, set a goal to resolve the case within 20 days or no more than 30 days.
4. Submit the List of Allowances form to the **judge at the conclusion of the hearing** on the final court date so that the appropriate costs may be assessed the defendant.
5. Continue to represent the defendant if the defendant chooses to appeal the decision to the Circuit Court or the felony case is forwarded to the Grand Jury. If appealed, the Circuit Court Clerk will notify the attorney of the trial date and will provide the attorney with appointment papers for the representation in Circuit Court.

7:5 Billing Procedures

A List of Allowances form (DC-40) is provided to the attorney at the time of assignment to the case. It contains a unique billing number which should be kept as reference since this number will appear on the check stub when payment is received and may be the only identifying information provided. Compensation for court appointed counsel is per case, not per defendant, however, only one List of Allowances should be used to list multiple charges against a defendant.

It is extremely important that the List of Allowances form is submitted to the judge in the courtroom at the conclusion of the case so that the clerk processing the case can immediately determine the amount the attorney is to be paid and assess the costs against the defendant if the charge resulted in a conviction. If a List of Allowances is not submitted at the conclusion of the case, payment will be delayed and the amount allowed may be reduced, particularly if the clerk had to compute court costs without input from the attorney.

If the attorney wishes to claim expenses, the claim must be accompanied by receipts or other documents substantiating the claim. If telephone charges are claimed as expenses, a copy of the telephone bill must be attached and submitted with the List of Allowances form. These expenses are subject to audit and review by the Supreme Court of Virginia, as well as the Auditor of Public Accounts.

Code of Virginia, Section 19.2-163, provides that court appointed counsel, who are not public defenders, may request a waiver of the statutory fee cap up to specified additional amounts depending on the charges, the time reasonably necessary for the representation, the novelty and difficulty of the issues, or other unusual circumstances. Examples of factors to be considered for the fee cap waiver include issues requiring extensive legal research; representation of a client requiring the services of an interpreter or a client with serious mental health issues; and single charge representation. When requesting a waiver, attorneys must submit the List of Allowances (Form DC-40), the Application and Authorization for Waiver of Fee Cap (form DC-40A), and an Attorney Time Sheet. These forms are available online at www.courts.state.va.us and in the Clerk's Offices. The Application allows attorneys to check a box for a supplemental waiver of the fee and for an additional waiver on top of the first. Although these additional fees are not assessed against the defendant, it is still extremely important that the forms be submitted to the judge in the courtroom at the conclusion of the case or shortly thereafter for consideration. The presiding judge will determine whether the supplemental waiver is justified. Requests for the additional waiver must be approved by the presiding judge and the chief judge.

7:6 Payment

At the conclusion of the case, the clerk will determine the amount of fees allowed the attorney and assess costs against the defendant for any charge resulting in a

conviction. The clerk will complete the List of Allowances and forward it to the Clerk of Court for signature and processing.

The Court's Bookkeeping Unit is responsible for sending the List of Allowances form to the appropriate jurisdiction for payment. If the defendant was charged under the State Code, the List of Allowances form will be submitted to the Supreme Court of Virginia for payment. If the defendant was charged under a local ordinance, the List of Allowances form will be submitted to the locality for payment.

It may take up to six to eight weeks for the responsible jurisdiction to make payment. Questions concerning payment should be directed to Bookkeeping in Room 210 (703-246-2153). For tracking purposes, the attorney will need to supply the defendant's name, final court date, and the List of Allowances form billing number.

7:7 Subsequent Hearings Following Trial

If a defendant is ordered to return to court for a show cause hearing for noncompliance or to indicate why a suspended sentence should not be imposed, the attorney will be notified by the court clerk as a courtesy. The attorney may appear at the hearing and, if the defendant is determined to still be eligible for a court appointed attorney, the original attorney may be re-appointed and will receive payment for the additional services on the show cause as a new case.

7:8 Substitution of Counsel

If a defendant retains counsel, the court appointed attorney should be relieved of further responsibility and compensated for his services pro rata. A **Substitution of Counsel form is required** and must be signed by both the new counsel and the court appointed counsel being replaced. Also, the court appointed attorney should promptly file a List of Allowances form to document any services provided. Whenever a List of Allowances form is filed before the final court date, the attorney must indicate the reason for early filing. If a List of Allowances is not received, the Court will assume the attorney never met with the client and the billing voucher will be marked "void" and filed with the voucher records.

7:9 Requests for Withdrawal of Counsel

A court appointed attorney may seek the Court's permission to withdraw as counsel if the defendant has not appeared for several months or if counsel has been unable to make contact with the defendant. This usually occurs when a capias is outstanding and the officer has been unable to serve the warrant. If the judge grants the request to withdraw, the attorney should immediately file the List of Allowances form with the Court if reimbursement for time or expenses is claimed. No payment will be allowed if the List of Allowances form is not filed timely.

PART EIGHT
Directions to the Court, Maps, and Parking

FAIRFAX COUNTY COURTHOUSE

4110 Chain Bridge Road, Fairfax, Virginia

Directions to Fairfax County Courthouse

FROM VIRGINIA:

South - (Occoquan, Woodbridge, Dale City)

- Take I-95 NORTH
- Exit 160B toward OCCOQUAN/LAKE RIDGE (Route 123 North)
- Go approximately 14 miles into the City of Fairfax (past GMU and City Hall)
- Turn left on Judicial Drive (Red, Hot & Blue is on the corner)
- Follow Judicial Drive, curving sharply right to stop sign at Page Avenue
- At the stop sign, turn right on Page Avenue to Parking Garage B on the left (see Parking).
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

West - (Manassas, Gainesville)

- Take Rt. I-66 EAST to Rt. 50 EAST
- After the 3rd traffic light, stay in the right hand lanes and continue straight through the 4th traffic light onto Route 236
- Go through 4 more lights and turn right at the 5th light onto Judicial Drive
- At the stop sign, take a left onto Page Avenue to Parking Garage B on the left (see Parking).
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

(OR)

- take Route 29 EAST to the intersection with Rt. 50 and Rt. 236
- Stay in right lane, bear right onto Route 236, Main Street (Office Depot and Washington Sports Club will be on the right)
- Go through 4 more lights and turn right at the 5th light onto Judicial Drive
- At the stop sign, take a left onto Page Avenue to Parking Garage B on the left (see Parking).
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

North - (Leesburg)

- Take the Greenway Toll Road or Route 7 to Route 28, SOUTH
- Take Route 28 south to Route 50 EAST (stay on Route 50 approx. 10 miles to Fairfax City)
- After crossing I-66, stay in the right hand lane through 4 traffic lights and continue straight onto Route 236, Main Street (Office Depot and Washington Sports Club will be on the right).
- Go through 4 more lights and make a right at the 5th light onto Judicial Drive
- At the stop sign, take a left onto Page Avenue to Parking Garage B on the left (see Parking).
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

East - (Arlington, Falls Church)

- Take Rt. I-66 WEST to Fairfax-Vienna exit (Route 123, Exit 60)
- Take the exit toward Fairfax, heading SOUTH on Route 123
- Continue on Rt. 123 (cross Rt. 50, curve up and around Rust Curve, cross Main Street)
- Turn right into the Courthouse complex (just past Main Street and the Historic Courthouse)
- Stay in the right hand lane and curve left onto Page Avenue to Parking Garage B on the right at the bottom of the hill (see Parking).
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

From Fairfax County Parkway (Rt. 7100)

- Exit from the Fairfax County Parkway onto Rt. 123 (Ox Road) going NORTH toward Fairfax.
- Go approximately 3.9 miles
- Take a left onto Judicial Drive (Red, Hot & Blue will be on the left) curving sharply right to stop sign at Page Avenue.
- At the stop sign, turn right onto Page Avenue to Parking Garage B on the left (see parking).
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

FROM MARYLAND:

- Take I-495 SOUTH to I-66 WEST
- From I-66, take the Fairfax-Vienna exit (Route 123, Exit 60)
- Take the exit toward Fairfax, heading SOUTH on Route 123

- Continue on Rt. 123 (cross Rt. 50, curve up and around Rust Curve, cross Main Street)
- Turn right into the Courthouse complex (just past Main Street and the Historic Courthouse)
- Stay in the right hand lane and curve left onto Page Avenue to Parking Garage B on the right at the bottom of the hill (see Parking).
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

(OR)

- Take I-495 to Exit 52A, Rt. 236 (Little River Turnpike) WEST
- Go 4.4 miles into the City of Fairfax
- Continue straight down Main Street through Old Town Fairfax
- Cross Rt. 123 and at the next stop light turn left onto West Street
- Turn right onto Page Avenue to Parking Garage B on the right (see Parking)
- The Courthouse is a 5-level building diagonally across Page Avenue from the garage.

BY METRO:

- Take the ORANGE line to Vienna Metro Station
- Exit to the left at the top of the stairs (to the northern side of the station)
- Take the Fairfax City CUE Bus (Gold,#1, is most direct) to the Fairfax County Courthouse
 - CUE Bus runs from 5:30 a.m. - 11:30 p.m., Monday through Friday
 - Gold CUE Bus #1 picks up at Vienna Metro beginning at 6:03 a.m., then every 30 minutes. The ride to the Fairfax County Courthouse is approximately 20-30 minutes. To ensure timely arrival for 9:30 a.m. court sessions, take the Gold CUE Bus #1 from Vienna at 7:32 a.m., 8:01 a.m., or 8:31 a.m.
 - CUE Bus fare is \$1.70 (or \$1.50 for riders paying with a SmarTrip card).
 - Call the Fairfax City CUE Bus System at 703-385-7859 or visit online at www.cuebus.org for additional information.

SECURITY

An airport-style security system is located at all public entrances to the Courthouse to screen for weapons and other prohibited items. Under certain circumstances, you may also be subject to a personal search. Cameras and other prohibited items (pocket knives of any size, scissors, pepper spray, etc.) will be confiscated and returned to you when you exit the building. **Cell phones with cameras will also be confiscated and should be left in your car to expedite your entry into the building.**

PARKING

Fairfax County Courthouse, 4110 Chain Bridge Rd., Fairfax, VA 22030

- Parking is available in Public Parking Garage B located on Page Avenue, diagonally across from the tall Massey Building and the Courthouse.
- The cost for parking in the garages is \$2 per hour up to a maximum of \$10 per day.
- Please follow the signs to Parking Garage B coming from Judicial Drive or West Street.
- Public parking is available **only in Garage B.**
- The garage utilizes a pay on foot system for faster exiting. Please remember to take your parking stub with you and pay at the parking lobby kiosk or 4th floor kiosk before returning to your vehicle. Please allow extra time to find parking.
- Handicapped parking is located in a designated lot in front of the tall Massey Building and in a small lot behind and to the side of the Massey Building. Additional accessible spaces are available in Parking Garage A located next to the Courthouse.

Fairfax City Court (City Hall), 10455 Armstrong St, Fairfax, VA 22030

- Parking is provided in the City Hall lot, which is accessed off of Rt. 123 just south of Armstrong Street.
- Street parking is allowed on Armstrong Street, which runs in front of City Hall, in the few marked spaces.
- Street parking is prohibited along University Drive.

Herndon (Town Hall), 765 Lynn St., Herndon, VA 22070

- Street parking is available in limited quantities on Lynn Street not far from the Town Hall.

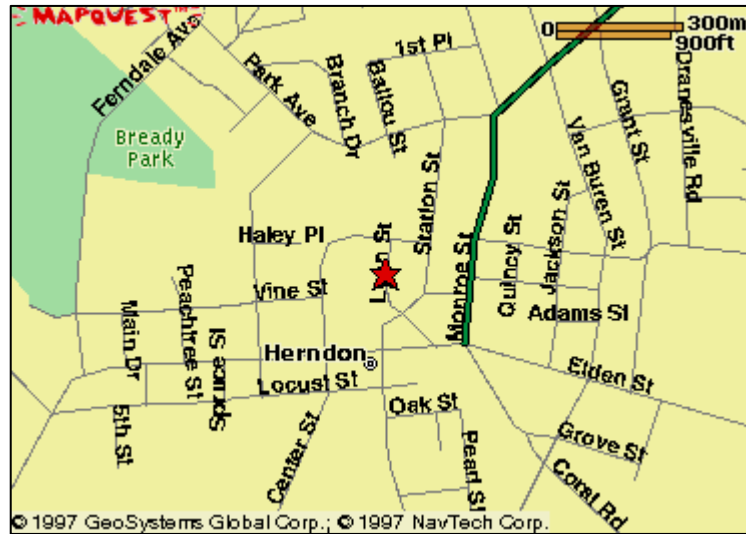
Vienna (Town Hall), 127 S. Center St., Vienna, VA 22180

- Street parking is allowed along South Center Street near the Town Hall.

HERNDON COURT

765 Lynn Street, Herndon, VA

Map to Herndon Court



From the Dulles Toll Road -

- take the HERNDON exit off the Dulles Toll Road onto ELDEN STREET going north towards town
- stay on Elden past the sharp curve
- turn LEFT at the stoplight onto STATION STREET
- you will see an old train caboose on your left. PARK there and walk to 765 LYNN STREET
- court is held in the basement of the glass domed building which says "Herndon General District Court"
- court convenes here on Wednesdays only at 9:30 a.m.

From Rt. 7 -

- turn at the stoplight onto Rt. 606, BARON CAMERON DRIVE. (Baron Cameron becomes ELDEN STREET in Herndon.)
- go approximately 6 miles into the center of town
- turn RIGHT onto STATION STREET for parking in the lot with the old train caboose
- walk to 765 LYNN STREET
- court is held in the basement of the glass domed building which says "Herndon General District Court"
- court convenes here on Wednesdays only at 9:30 a.m.

From Rt. 50 (West of Fair Oaks)

- turn north onto CENTREVILLE ROAD (Centreville Rd. becomes ELDEN STREET in Herndon.)
- stay on Elden Street past the sharp curve
- turn LEFT at the stoplight onto STATION STREET
- you will see an old train caboose on your left. PARK there and walk to 765 LYNN STREET
- court is held in the basement of the glass domed building which says "Herndon General District Court"
- court convenes here on Wednesdays only at 9:30 a.m.

From Fairfax County Parkway

- follow the Parkway to a left on BARON CAMERON DRIVE. (Baron Cameron becomes ELDEN STREET in Herndon.)
 - turn RIGHT at the stoplight onto STATION STREET for parking in the lot with the old train caboose on your left.
 - walk to 765 LYNN STREET
 - court is held in the basement of the glass domed building which says "Herndon General District Court"
 - court convenes here on Wednesdays only at 9:30 a.m.
-

VIENNA COURT

127 South Center Street, Vienna, VA

Map to Vienna Court



North - (Tysons Corner, Rt. 7)

- take Rt. 123 SOUTH into Vienna
- go approximately 6 traffic lights in town, past Patrick Henry Library on left
- turn left onto SOUTH CENTER STREET between library and Mobil gas station
- court is located immediately behind the Mobil station, on the right
- court convenes on Mondays only at 9:30 a.m.

South - (Fairfax, Woodbridge)

- take Rt. 123 NORTH into Vienna
- go approximately 6 traffic lights in town
- just past the Mobil gas station, take a right onto SOUTH CENTER STREET
- court is located immediately behind the Mobil station, on the right
- court convenes on Mondays only at 9:30 a.m.

(OR)

- take Rt. I-66 to Vienna exit onto NUTLEY STREET (near Vienna Metro)
- go NORTH on NUTLEY STREET
- turn right onto Rt. 123 NORTH
- go approximately 5 traffic lights
- just past the Mobil gas station, take a right onto SOUTH CENTER STREET
- court is located immediately behind the Mobil station, on the right
- court convenes on Mondays only at 9:30 a.m.

APPENDIX OF FORMS & INFORMATIONAL HANDOUTS

Below is a listing and description of the most popular forms and informational handouts used in the Fairfax County General District Court. All of these may be obtained at the Clerk's Offices on the first and second floors of the Courthouse. The Court is in the process of making most of them available on the Court's website at: www.fairfaxcounty.gov/courts/gendist. Of those forms already on our Website, several may be completed online and printed for submission in person or by postal mail, and a few may be filed with the Court through email. Procedures and instructions for completing and submitting the forms are included on the site.

Several of the forms listed below are only available on the Supreme Court of Virginia's website at: www.courts.state.va.us under Forms. This site contains many of the most commonly used state forms (in numerical order) for civil, criminal, and traffic cases.

Civil Forms

1. **Request for Court Action - Civil Division** (GDC-53) - This is the local civil praecipe used for requesting a continuance or dismissal of a civil action. This is available on the Court's website: www.fairfaxcounty.gov/courts/gendist.
2. **Bill of Particulars** (DC-441) and **Grounds of Defense** (DC-442) - These forms are given to pro se parties in the courtroom at the time a trial date is selected if pleadings are required. On the form the clerk indicates the date for trial in Courtroom 2B and the due dates for the bill of particulars and the grounds of defense. These are available on the Supreme Court's website: www.courts.state.va.us under Forms. In Fairfax, the reverse side of these forms is preprinted with general information about these pleadings. This information is available at: www.fairfaxcounty.gov/courts/gendist.
3. **Notice of Satisfaction** (DC-458) – Code §16.1-94.01 requires the judgment creditor to give written notice to the clerk within thirty days of receipt of payment or satisfaction of a judgment. A copy should be mailed to the judgment debtor. This form is available on the Supreme Court's website: www.courts.state.va.us under Forms.

Civil Informational Handouts

4. **Filing Civil Process - Guide to Forms and Copies Needed** (GDC-111) - This handout provides information on filing fees and Sheriff's service fees and the number of copies required to file various actions. This handout is available on the Court's website at: www.fairfaxcounty.gov/courts/gendist.

5. **Procedures for Plaintiffs** – This brochure supplies procedural information for a plaintiff initiating a civil case – from types of actions, fees, service of process, and selecting a court date, to procedures for enforcing the judgment or appealing the case.
6. **Procedures for Defendants** – This brochure is similar to the one for plaintiffs but answers procedural questions from a defendant’s point of view.
7. **Civil Judgment Checklist** - Default judgments are entered in the courtroom, however, they are always entered subject to the judge’s review in chambers. All too often, judgments are vacated upon review because service is not proper or necessary documents have not been provided. This checklist explains some of the local requirements.
8. **So You’ve Won a Judgment - Now What?** - This handout is given to pro se plaintiffs at the time judgment is awarded to explain some of the options available for collecting their judgment.
9. **A Judgment Has Been Entered Against You – Now What?** This handout is given to pro se defendants at the time judgment is awarded to explain payment and appeal procedures, as well as options that may be available to the plaintiff to collect on the debt.
10. **Garnishment Information** - Explains number of copies needed of the various garnishment forms, required fees, selecting a garnishment return date, proper service, how to compute interest, and what to do with the written answer.
11. **Procedures for Federal Government Garnishments** - Outlines the specific requirements for service when filing a garnishment against a federal government employee.
12. **Landlord/Tenant Practice** – This handout includes specific information and code sections on many areas of landlord/tenant practice.
13. **Writ of Possession in Unlawful Detainer** – Pro se plaintiffs are given this handout at the time they are awarded a judgment for possession on an unlawful detainer. It explains the Writ of Possession process.

Criminal/Traffic Forms

14. **Appearance of Counsel** – Pink form noting counsel of record. Prepared by attorney and submitted to Clerk’s Office or judge at court hearing. This form is available on the Court’s website at: www.fairfaxcounty.gov/courts/gendist.

15. **Motion to Withdraw or Substitute Counsel** – 4-part NCR form. *Substitution* of counsel should be filed with the Clerk’s Office after signed agreement of all parties. *Withdrawal* of counsel requires a judge’s signature and should be filed with the Clerk’s Office and placed on the Motion’s Docket, or provided to the judge at court hearing. If defendant was originally assigned *court appointed counsel*, then *retained* counsel must file this motion prior to court date in order for the defendant to avoid additional costs.
16. **Motion for Bond Reduction** – (GDC-30) 4-part NCR form. Prepared by the attorney and submitted to the appropriate Clerk’s Office by 3:00 p.m. to be placed on the next day’s 8:30 a.m. Bond Reduction Docket in Courtroom 2G. Attorney must deliver copies to Commonwealth’s Attorney (or appropriate prosecutor) and Court Services. This form is available on the Court’s website at: www.fairfaxcounty.gov/courts/gendist.
17. **Continuance Request** – There are various procedures governing continuance requests depending on the charge and the number of previous continuances. See Sections [3:15](#) and [5:12](#) of this publication. Procedures and form available on the Court’s website at: www.fairfaxcounty.gov/courts/gendist.
18. **Motion for Competency (§19.2-169.1)** – 4-part NCR form. Prepared by attorney (must select appropriate code section) and submitted to Clerk’s Office by 3:00 p.m. to be placed on the next day’s 9:30 a.m. Motion’s Docket. Defense counsel must provide a completed “Request for Forensic Evaluation” form for §19.2-169.1 and §19.2-169.5 evaluations at the motions hearing. A copy must be provided to the appropriate prosecutor.
19. **Request for Copies** – 2-part NCR form. Prepare and submit to Clerk’s Office, noting if certified copies are requested. Larger requests for multiple-case copies will be processed in two to five business days. See [Section 1:11](#) in this publication. Note: Cases more than 4-5 years old may be stored off-site and will require submitting a separate form to Archives and Records. Call the Clerk’s Office first to determine the availability of older cases.
20. **Discovery Order** - 4-part NCR form. Discovery motions must be filed with the Clerk’s Office at least 10 days prior to trial and should be returnable to the Court’s 9:30 a.m. docket if a hearing is required. **Agreed** orders may be filed with the Clerk’s Office and do not require a hearing. Procedures and form are available on the Court’s website at: www.fairfaxcounty.gov/courts/gendist.
21. **Subpoena Duces Tecum** – (DC-336) NCR paper – original + 3 copies. Should be filed with the Clerk’s Office at least 15 days prior to trial and made returnable to the 9:30 a.m. Motion’s Docket if a hearing is required. **Agreed** orders may be dropped off in the appropriate Clerk’s Office for review in Chambers. Agreed orders do not require a hearing.

22. **Restricted Driver's License Application Worksheet** – Prepared in advance by attorney and submitted to the judge at the time of trial when requesting a restricted driver's license (RDL). This application should be submitted at the time of filing a motion for changes to a RDL. This form is available on the Supreme Court's website at www.courts.state.va.us in a Revisable PDF format that can be completed on-line and printed to bring to court. Judges will not consider the motion until the worksheet is complete. Preparing it in advance and submitting it at the time of filing a motion will expedite the process.
23. **Restitution Order** – 3-part NCR form available in courtrooms. Completed by parties and submitted for judge's approval, with a copy to both defendant and complainant. Must be submitted in every case involving unpaid restitution.

Criminal/Traffic Informational Handouts

24. **Getting Through the Criminal Justice System** – This handout provides an overview of the court process from the arrest to trial outcomes, including pretrial concerns and what happens on the court date. It briefly describes the three courts in Fairfax, the people in the courtroom, and what to do if you receive a subpoena as a victim or witness.
25. **Have You Missed Your Traffic or Criminal Court Date? Don't Panic!** – Explains options and actions when someone fails to appear for a court date.
26. **What Happens After Conviction** – This includes information on fines & costs, driver's license suspension, unpaid fines (and collection), bond refunds, motions, and appeals.
27. **Payment Options for Traffic Cases After Conviction** – Explains payment options and deadlines. A payment form is included.
28. **Misdemeanor Appeals** – This is a Circuit Court handout that briefly explains the appeal process.

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